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**JANE/TARZAN: IT'S A JUNGLE OUT THERE!
FINDING THE ETHICAL VINES IN THE JUNGLE**

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MR. BARNET N. BERIN: Mr. Howe is the founder, president, and senior partner of the law firm of Howe & Hutton, Ltd. The firm specializes in not-for-profit and related organizations, as well as those in the travel, tourism, hospitality, incentive, and meetings industries. Mr. Howe has been a frequent lecturer and author on a variety of issues pertinent to the association management field. For the past 26 years, Mr. Howe has been heavily involved in numerous civic activities, particularly in the field of education. For his outstanding service, he has been the recipient of many awards. Mr. Howe has a law degree from Duke University and a B.A. from Northwestern University.

MR. JONATHAN T. HOWE: It's a pleasure to have the opportunity to be with you to talk about an issue that seemingly makes front pages of newspapers and magazines, makes the evening news, and is right there in front of us all the time. How many of us can remember what the 1987 issue of *Time* magazine said? No one. "Whatever Happened to Ethics?" was on the cover.

Another article reads "How do you handle office dishonesty?" Let me read this to you. "During my training at a collection agency for which I work, I was shown a way to quickly move accounts. Two years later I was informed that this method amounts to falsifying files and I was terminated. How do I explain this to potential employers?" What was the response given by the expert? "You must discuss the situation with your former employer to see how they plan to handle references for you." Think about that one for a moment. "They may find it hard to believe that you did not know what you were doing was dishonest, so it's important to communicate this to them. Once you find out how they will handle it with potential employers, ask an employment counselor how to proceed." Second question: "I suspect my supervisor is taking money. I have documents that may support my theory, but nothing concrete. Should I inform management or remain quiet and risk being suspected of involvement if they discover it?" Answer: "Present copies of the documents to management." Now here's the caveat: "don't relay anything that is hearsay or third-party information. That way you are showing you are not involved in any missing funds, and ask them what to do from this point on."

Here's the last one I'll give to you: "I work for a teacher who is always asking me to do personal favors for her using school time and supplies. She is the only one who evaluates my performance, so if I want to keep my job, I can't refuse. Years ago I worked for another teacher who stole school supplies, but when I told someone about it, I was told to keep quiet or lose my job. What should I do?" Answer: "When people are threatened into silence, they promote the very corruptions of which they complain. Few people will fault

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someone for backing down if his or her life is threatened, but a job is another story. I would never tell someone to jeopardize the only job he or she could ever have, so you must weigh how marketable you are and what you are willing to tolerate in the situation.”

The Sunday magazine of *The New York Times* mentioned how ethics are taught. Who will teach kids right from wrong? Big question as to what we do. I spent about 21 years of my life in public education as a school board member, looking at the issues that were involved relative to what we teach in the schools. And I might disagree with the idea that schools are having to abdicate the whole idea, as to the moral values and the things that we become concerned with, and only for one reason: the schools are asked to do so much. Who else is asked to feed, counsel, advise about sex education, and tell stories about what you should or should not do relative to your own welfare? Who else has the responsibility to do all of these things so far that we lose the image and the basic requirement of teaching and educating kids today in our environment? We ask the schools to do so much, but certainly character, morality, the issues that are out there become so important. Then we turn to our churches and our religious bodies. Here's another headline: On May 2, 1995, Episcopal church treasurer stole \$2.2 million, the church says. And she cops the plea.

The Wall Street Journal, May 3, 1995: Holders of cash-value life insurance need to be aware of replacement artists. Does this ring true so often in what we look at today? Let's go right now to a situation that happened and came to light a few days ago. Did anybody read about the New Era benevolent fund? *The Wall Street Journal*, on page one discussed how New Era's boss led rich and gullible people into a web of deceit. This boss then used untiring persuasion with contacts and finders' fees to boost his charity. The SEC says he diverted millions. That's page one. Let us open the paper a bit more and see what we find back here a little bit further. A persistent accountant brought New Era's problems to light. Let me read the introductory paragraph to this because it's very interesting and germane to what we're talking about here. "As a hero, Albert J. Meyer is an unlikely figure. A mild-mannered, just plain accountant who teaches business at a tiny Christian college in a Michigan farming community, but investigators for the SEC and others cite that Mr. Meyer is exactly that. He persevered nearly two years despite efforts to discourage and eventually blew the lid off a massive case of alleged fraud."

Let me talk about Mr. Meyer. It's an interesting case of what we face in a dynamic situation of ethics today. Meyer was a South African who came to the U.S. to teach. A devout Christian, he wanted to work at a Christian institution. He was an accountant. He went to work for this particular college and was on a tenure track as a professor. But because the college only had three students majoring in accounting, he was asked to fill in part-time in the business office of the college. He was going through the books one day and found a wire transfer for \$294,000, payable to an organization called, "The Heritage of Values." Bingo.

He went to the library, looked around, and did some research. He went back to the vice president of business affairs at the college and said, "I'm worried about this." The man says, "They're a good group; they're with this New Era group and this guy has been very good. He's going to double our money in six months." OK. Mr. Meyer goes back to the library. Who is this New Era group? He can find nothing. He goes back to the administration and says he's concerned about this investment. They tell him to keep quiet

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and not to bite the hand that feeds them because their money will be doubled in six months. For two years he goes back and forth, back and forth. He goes to his fellow faculty members and they say he's probably right.

He goes to the president and chairperson of the board of trustees and says, "I think we have a risky investment." The man says, "They're doing business with Wheaton College; they're doing business with Moody Bible Institute; they're doing business with William Simon. Simon had invested \$9.4 million. So they're good people."

Mr. Meyer has been reading about this guy called Ponzi. He says, "Let me see if I can figure something out along this trail." He investigates, writes letters to others, calls people, and then he goes back to the faculty, the administration, and the board of trustees. They are about ready to throw another million dollars into this. He goes into the trustee meeting and says, "A million dollars?" They say that they will get two million back. He says, "But I think this is a real problem." They say OK and thank him. He leaves the meeting feeling really good about it. He thinks he has persuaded them not to spend any more money. What do they do? They up the ante to \$1.5 million. With this he wonders how he will go from being a timid, tenure-track professor to being a pursuer of this particular situation, but he decides to pursue it. He makes more phone calls and contacts other people.

Finally, much to his surprise, even though he and his wife stopped going to faculty and administrative functions, he received a letter from the president of the college saying, congratulations, you are now a tenured professor. The next day he decided to test how far tenure goes. He wrote to other colleges, he contacted the IRS, the American Institute of Certified Public Accountants (AICPA), and the SEC. The SEC says that Ponzi looks like, walks like, and talks like a Ponzi duck and that the Declaration of New Era, a bankrupt organization seeking reorganization under Section 11, has suddenly changed to become a Title 7, which means total dissolution and elimination of the company.

What was most telling in this article, and most telling about Professor Meyer, was that several of his students were contacted and one said, "I really admire the professor; he is a most courageous, heroic individual, but if my position depended upon my not going forward on this particular situation, I would have stopped."

Why do we then see continuing articles about the issue of ethics everyday, every minute, and at every opportunity? What is the price that we pay to live in a civilized society? We are going to be civil to each other and we're going to look at the things that we do in a manner in which to try to do what is right. We try to find those vines to make our way through the ethical jungle.

Let me suggest to you just for this moment that ethics are a zero. I'll explain that to you in a moment. But then what would we have? We would have moral disarray. We have questions that are out there about what we're doing in our society. We mentioned education. In 1940, a survey was made of teachers in the U.S. as to what they considered to be the major issues in teaching children in the U.S. The major offenses that those kids did: number one, talking in class; number two, chewing gum; number three, making noise; number four, running in the hall; number five, which may also be appropriate today, improper clothes; number six, not putting trash in the wastebaskets. The most recent

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survey showed drugs and alcohol, rape, arson, suicide, absenteeism, pregnancies, gang warfare, and violence.

Each of us looks at our issues of ethics and what we do. But a coworker walks into your office and asks how you like his/her new suit? You take one look at it—it's purple with a green tie and a chartreuse belt—and you say you like it. Why do we do that? We do that every time we turn around. We tell some kind of little white lie because we try to approach the situation in a manner in which we feel comfortable. We do not want to upset somebody else. Sometimes we hear, "Why don't you change the numbers over here and see if you can come up with a different result?"

One of my favorite stories deals with the chairperson of a company who is looking for a successor. He or she decides to interview the engineer, the actuary, and the lawyer. He brings in the engineer and says, "Now, as you know, you're the vice president of engineering for our company. I have but one question for you: how much is two plus two?" The engineer gets out the slide rule, whips it back and forth a few times and says, "Within the probability of error, two plus two is most likely four." The chairperson says, "Thank you very much." The actuary enters next and is also asked how much two plus two is. The actuary gets the tables out and runs through a few things and replies, "Based upon my training and skill as an actuary and my professional opinion, two plus two, without doubt, is four." The lawyer is the final candidate and is asked the same question. The lawyer leans across the desk, looks the chairperson in the eye and says, "What do you want it to be?" So often we also are asked, what do you want it to be? I can tell that about my profession, because I can get away with it. I think that so much of what we're concerned with in this whole era of ethics and concern is that too often we respond with the easy answer, not necessarily the right answer. We respond by trying to please, as opposed to trying to tell what the real story should be or could be or really is overall. As I say, a civilized society requires civil people.

One of the issues in this whole program is, how do we move ethics to professionalism? Let me suggest to you that the definition of a profession requires two or perhaps three things. The first item for a profession is for there to be a common body of knowledge—if there is not a common body of knowledge or expertise, then we need not go further. Second, not only do you have that common body of knowledge; you also have a requirement that the people within that group aspire to a higher degree or a higher level of ethics. Close your eyes and visualize a pyramid for a moment. At the bottom of that pyramid is, as Gary Edwards suggested, the law. The law is that base and it is what we require of each other. Somebody has designed it for us and it represents our social, our personal, and our business requirements. We must subscribe to the law.

At the top of that pyramid, picture morality. Morality is something that is personal—it's personal to you and it's personal to me. My morality, my basic thoughts in that particular arena, may be quite different than yours. All right, in the middle of the pyramid is the ethical requirement. This ethical requirement is something above the law and perhaps ties into our morality or our feelings, but something separates us from others because we are members of a profession. When we are a professional, not only do we have that code of ethics, but we also have perhaps that third requirement to truly make us a profession. It is enforced.

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If you have a code of ethics which you do not fear being enforced, and you have a standard of practice that is not enforced, it is meaningless. Well, what happens if you violate it? I don't know. Whether it's business or professional, it has to have some teeth in it to make it and to separate it away from any other kind of voluntary standard that might be there.

The whole issue of ethics is something that is instilled from the top and comes all the way down to the bottom. Ethics don't work their way up; ethics work their way down. From a professional point of view, we have to bear in mind exactly how they work their way up or down.

If we have a company that does not believe in ethics and does not believe that it should go forward, then we have nothing at all. I'm sure many of you have read Stephen R. Covey's *The 7 Habits of Highly Effective People* (New York: Simon and Schuster, 1989). He notes some very important factors. Principles are deep; they're fundamental truths. The principles are exact and they are consistent. The principles are bigger than the people or the circumstances. If they are correct, they do not cause damage or harm. Principles do not depend on the behavior of others. Principles do not lie and principles have natural consequences attached to them. We are free to choose our actions based on correct principles, but we are not free to choose the consequences of those actions. Positive consequences result if we live in harmony with our principles. How true.

Part of the difficulty we have in any kind of ethical consideration, and most particularly when we try to put that into a profession is, exactly what are they? I am a professional; I work for a company; I have, as a professional, one set of ethics; and my company may or may not have a set of ethics. Great question: how do I react and how do I act? What do I do in that particular circumstance? The question then becomes, how comfortable are you to look at what's going on? How comfortable are you to get up in the morning, go into the bathroom, throw that water on your face, and then look at yourself in the mirror?

One person wrote a poem that may reflect well on that: "When you get what you want in your struggle for self, and the world makes you king for a day, just go to a mirror and look at yourself and see what that man has to say. It isn't your father or mother or wife whose judgment upon which you must pass. The fellow whose verdict counts most in your life is the one staring back from the glass. Some people may think that you're a straight-shooting chum and call you a wonderful guy. But the man in the glass says, you're only a bum; you can't look him straight in the eye. He's the fellow to please, never mind all the rest. For he's with you clear up to the end, and you pass your dangerous difficulty test if the man in the glass is your friend. You may fool the whole world down the pathway of life and get pats on your back as you pass. But your final reward will be heartaches and tears if you've cheated the man in the glass."

I think that tells about where we go in that top part and in that middle part of that pyramid out there: the ethical requirement and the moral requirement.

One of the things that we have difficulty with is understanding other people's morality, pathos for life, or how they go about it. So often we judge people in a way that reflects ourselves, not necessarily what they believe. Part of diversity and part of understanding

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becomes how we look at them, what they do, and how we go about it. But that never allows us and never gives us permission to back away from what we truly believe in.

Thomas Paine, a great patriot and founder of this republic, made a very good statement: "A long habit of not thinking a thing wrong gives us the superficial appearance of it being right." We look at it and it seems that everybody else is doing it. Sure, why not? With our children, so often the major excuse that comes back to us at night is, "Gee Dad, I'd like to stay up a little bit longer." Well, you can't. "I want to go to the movies." Well, you can't. "Well, everybody else is." We give in so many times through that habit of not thinking anything is wrong that it gives us an appearance of something being right.

As we swing our way through this jungle of ethics, how do we make those determinations? Beyond our profession, beyond our company, beyond our business, beyond our own social feelings as to the people we do business with or communicate with or have friendships with, what will be the approach that you or I can live with? But, what's more important is what *I* can live with and what *you* can live with. And so, we often look at how these things evolve.

If we go back to Covey, a very important thing he said is that when we come down to ethical standards, one of the things that we want to have is something that is clear and concise and consistent. Anytime we make one excuse for a leeway or say, "Well, that's Charlie," or, "We'll let Charlie get by this time," we immediately break the pattern. Because if Charlie can get away with it, why can't I get away with it? Or why can't you get away with it? When we have ethics and we look at professionalism, one of the things that we want to be concerned about is making sure they're consistent and making sure that we're uniform in our application. We make sure that from our standpoint of business, and from the standpoint of professionalism, that we have, in fact, done all we can to make sure that what we have done is consistent with everything else.

Ethics reminds me of a quote from Robert Frost, and one of his great poems, "The Path In the Road." Robert Frost said, "Two roads diverge in a wood and I took the one less traveled by and that has made all the difference." How often do we find ourselves coming to that fork in the road and we're not quite sure where we're going to go or what we're going to do?

When I was at Northwestern as an undergraduate, I had the good fortune of working for a very small insurance company in Evanston. I was basically a gofer. I started in the file room, but the person who was primarily overseeing me, because it was a small insurance company, was an actuary. He was vice president and actuary of the company. George was really a very strong influence on me over these years. He would say to me, "Jon, if you do something, make sure you believe in it." He also said, "If you have an opinion about something, say it."

When I got out of school, as a 21-year-old kid, they made me the comptroller of the company. And that was a fairly heady job. And I would oftentimes end up going into the president of the company and saying, "Allan, we have a problem here." Allan would glare at me, and George would be right behind me nodding, "go for it Jon; go for it." But if we have principles, and we believe in them, we can be like Albert Meyer, who uncovered the

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scandal at New Era. We can be like other people who are out there and who believe that we can think and act ethically in a morally chaotic world. We can look at things overall and come to a conclusion as to why ethics are basically a zero. Why are ethics a zero? Well, living ethically is much like the number zero in the authentic. Zero may not be much of value in and of itself, but zeros are capable of adding a great deal of value to everything that they are attached to.

So I leave you with this comment: we may find ourselves confronted with wondering what we should do ethically, wondering what we should do legally, and wondering what we should do morally. But if we like the man in the glass, and we realize that zeros can add tremendously to the value of what we present, and we have the conviction, and we're willing to take the consequences, we, too, can be heroes in our right.

If we want to live in a civilized society, we must be civil. To be civil, we must also be ethical. And if we want to be professional, we must practice ethics in a consistent and continuing manner in everything we do.

Somebody has to ask the question as to what's going on relative to this business. As we look at what you're doing, as to the legal platform that is out there, one of the major concerns is that so often ethics comes into play in companies after somebody gets his or her hand caught in the cookie jar. Ethics suddenly become a major issue when somebody has done something illegal. And the reason that person did something illegal was because they thought that was expected of them.

If we go back and look at some of the things that have taken place in this whole arena of ethics and of legal compliance, those companies that have ethical programs in place have codes and standards of conduct. They don't give an employee a three by five card, which states: on the advice of counsel I refuse to answer that question based upon rights granted under the Fifth Amendment against self-incrimination. That is not a good ethics card. That's a response to an ethical issue.

You are asked to provide a precise science, a precise art, and a precise number. You're there late at night, you find the error, what do you do?

One of the concerns that most of us have is, first issue, what is it going to do to me? Now how is this going to impact me? It's like that issue of where we are going to be tomorrow if I blow the whistle on something. It's like the Albert Meyer example. But if we persist, and even though we may be a person on a short-term visa, we once in a while have to feel good about what we do. And we want to get beyond the "upon the advice of counsel I refuse to answer the question." So what do we do in that situation? We tell as many people as we possibly can about what the problem is, and we retrench and we regroup and we go forward.

So often we have a major motivator in life. One is greed; to counterbalance greed is guilt. All are part of fear and hunger. How many have seen *Les Misérables*? It is a Victor Hugo story. What do you do: do you steal to feed the children? Do you have an ethical issue that is above the law? That can be a major concern that we have in today's age. Where do

we go and to what extent do we go? Do we use the law as an excuse, do we use the law as a fundamental underpinning of what we believe, or do we go beyond that?

FROM THE FLOOR: I'm very concerned about one aspect of morality in changing standards over a period of time. You mentioned Thomas Paine, Thomas Jefferson. Many people say that 200 years later and in hindsight, Jefferson was immoral even though he was supporting a perfectly legal institution, slavery. Or even more recently, Harry Truman did something that was legal in the context of war, but some denounced that it was immoral. Could you address the concern where even within our own career paths, time standards have changed so dramatically? What was perfectly good practice 10, 20, or 30 years ago is probably now questionable.

MR. HOWE: Having been a person who studied history and who is a student of history, the whole issue of the revision of history over the years has always fascinated me. One of my professors at Northwestern was a guy by the name of Ray Billington. He basically wrote the book on the evolution of the West in the U.S. (*Westward Expansion: A History of the American Frontier*. 4th ed. New York: Macmillian, 1974.) We use to call this course "Cowboys and Indians." He looked at it from an economic perspective and believed it was very beneficial.

There are other historians who look at that as being the deprivation and the enslavement of Native Americans and the taking away of their basic rights. Harry Truman saw controversy over the bombing of Hiroshima and Nagasaki, but we also saw people who believed very firmly that Truman had made the right decision.

Let me give you even a better case. How about Robert McNamara? He has now come back and said we made a mistake in Vietnam. And those who are sitting in judgment of McNamara said, nice of you to confess now, 20 years later; where were you back then? And that becomes one of the questions we all have to face. If we know something is wrong, what do we do? If we believe in something, are we going to be comfortable with what we believe in? Can we look at ourselves in the mirror, if you will? I love that particular situation, because I think that becomes one of our key elements. But how do we go through the revision aspect; hindsight is 20/20. But we have to do what's right or what we believe is right.

FROM THE FLOOR: I'd like to hear your candid views on ethics and the IRS (tax loopholes, the balance between self interest and the individual, or the company versus the good of the country).

MR. HOWE: What a great organization the IRS is. We were just talking about this at lunch. We have a basic premise in the common law and Anglo-Saxon law, and certainly the law of the U.S. and Canada: you are innocent until someone proves you guilty. There's one major exception: with the IRS, you are guilty until you have proven yourself innocent. Now why is that? Because our system of taxation on a federal basis and state basis is based upon what? It's based upon, you owe everything that's out there unless you can substantiate that you are entitled to the deduction, the loophole, or whatever.

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A consumer group believes in Ralph Nader, who says that any kind of tort reform is going to take away the advantage of an individual who has been hurt or harmed. That's one view. On the other hand, and sometimes I feel very strongly about this, and I will admit I'm basically a defense lawyer when I get into that kind of situation, we have a system that sometimes has gone off the wall. The comment was made about McDonalds. Where else in the world can you get a judgment for \$2.8 million for putting a cup of coffee between your legs, taking the top off, having the coffee spill onto your leg, and blaming the company? So I think we have to look at what we're doing with tort reform. The comment is made that when somebody gets sued, we all pay for it. We pay for it one way or the other. When somebody shoplifts something from a store, we pay for it. When people steal from their companies, we pay for it. When people cheat on their income taxes, we pay for it. So much of it gets back to what's right and what's wrong and what we believe in. Ultimately, we all bear that risk whether we're insured or uninsured.

MR. BERIN: Does anybody care to comment on ethical standards and ethical behavior and the U.S. Congress?

MR. HOWE: That's an oxymoron.

MR. BERIN: I think we tolerate in our system a lot of grayness in these issues. And the only way to do something about it is to recognize it. We accept that politicians will say things and then not deliver on the promise. We accept outrageous behavior from time to time from our public figures. Yet is there anything we can do about it? On all of these issues there is something we can do about it. We can get out there and vote. Never mind the weather or other commitments. But within our companies, it's much more difficult. My own personal opinion is that ethics come from the top down; it's not raised often enough. I think things are changing for the better. But I think as individuals we must accept the fact that when we see that something is wrong, we have to say something and not just accept it as another gray standard.

FROM THE FLOOR: Both of you made the statement that ethics are imposed from the top down. I feel that expression has been used throughout the country to excuse our own individual behavior. Blame it on the top. I think it's wrong to be expressing that here. I think ethics starts with us. That's where it begins and that's where it ends. Things go on; it is almost comedy. Equity Funding Life a few years back had clerical employees who made up phony policies. And this wasn't one or two people keeping a secret. These people thought they were playing a game. They made up death notices and all the certificates for death. It was a game. I think top-down adds to some of the situations that came up in our case study. We wanted to blame senior management for that situation rather than the employee.

MR. BERIN: I disagree with you. If you work in an organization where there isn't a sense of doing it right, getting a correct answer, having things checked, or owning up when you make an error, it's because the supervisor and his or her supervisor choose not to care. As an individual, I agree with you completely. We have our own responsibility; I would never duck that. But if you work in an environment where you sense that your supervisor cares, that's infectious. It goes up and down the line. Remember the story of the Tylenol disaster. It wasn't the CEO who removed this product from the shelf; it came from the

bottom up. Now why did it come from the bottom up? Because the people at the top instilled within the company a certain code.

FROM THE FLOOR: Going back to the comment made about politicians, politicians make a lot of promises that they probably don't intend to keep. But they're behaving like politicians, and we shouldn't be surprised when they make such statements. In fact, we maybe should hope that, in fact, politicians won't do all the things they promise to do. So perhaps they are being ethical politicians. My question is, is a set of ethics or a standard of ethics absolute? Does it change with time? Does it change with society? Does it change with the individuals in society? Is it an absolute or isn't it?

MR. HOWE: In response to your comment about politicians, I thank goodness that we don't get all the government we pay for. The second is that ethics are strategic. They are changing; they are moving. They reflect in no small part our understanding of current conditions and our response to them. Is that good or bad? I'm not going to make a moral judgment. The concern is, we're going to have to pay for it, nobody else is going to pay for it. I'll go back to the other question as to from the top down. I think that what both Bob and I are suggesting about from the top down is that if a company is going to have an aura in which somebody who is ethical can work in it, the ethics have to emanate from the top; otherwise, there will be the feeling overall within the company that ethics are secondary, bottom line is primary. And therefore, the net result of that is that one is driven to do whatever he or she can do to advance that bottom line without a concern as to the ethical aspect or the ethical behavior of the company.

I think that also when we look at the whole issue of ethics today, honesty is probably the biggest problem that we face. All of us slip that little white lie by once in a while. We all have our own versions of what the great three lies are. And so often we go through that in our honesty and in our approach to what we're doing. And so I think overall that when we look at this, whether it be a politician, a businessperson, or a spouse, we have to ask, are we doing the best? Are we comfortable with what we're doing? Can we live with what we're doing? And basically in those situations many times we must say no.

MR. BERIN: I'd like to come back to something that Jon said earlier in his talk. He said that many gray issues permeate our life and we do nothing about them. We just take them for granted because it has always been like that. I think the point on the politicians is exactly that one. We've tolerated behavior that's really not acceptable and we ought to do something about it. The only thing we can do about it is raise the voting percentage of the vote for the people whom you care for regardless of party.

MR. HOWE: Just one follow-up on that. *The New York Times* had an article on Gary Hart. There was a quote in which he said, "If you don't believe my personal life, just follow me." That very same Sunday, *The Washington Post* did and disclosed what happened. Bruce Babbitt had probably the best line of all. He said, had Gary Hart seen *Fatal Attraction* two weeks earlier, he might have been president.

FROM THE FLOOR: Just a comment on what you said about tort reform. I agree with you, but the other side of the issue was not presented. There was recent debate on the TV show, *Firing Line*. Alan Dershowitz mentioned that he had documented proof that a

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company did a cost benefit analysis to decide if it should improve a product from an obvious flaw that could hurt people. It decided that the lawsuits would cost less than fixing the product. So it went ahead and did nothing. This goes to the question, what kind of enforcement procedures do you have in the actuarial society? We note the disbarment for lawyers. Obviously, corruption is easy to get away with. We know that. But what can be done until you stop some of this?

MR. HOWE: Well, let's start with Alan Dershowitz. First of all, Alan is quoted as saying that every law enforcement officer in the U.S., as part of basic training, is taught how to lie. Mr. Dershowitz, who I've also debated at one point or another over the years, has some rather far stretches, if you will. Lawyers like to take things to the furthest extreme.

The case that was mentioned is basically a true case. The company knew what the flaw was, it made a calculated business judgment that to recall the product would be more expensive than what it would have to pay from the standpoint of lawsuits that might be filed. I think that's heinous. From a criminal prosecution point of view, that could be brought to the judicial bar as opposed to saying to a plaintiff, Gee, you were the first one to bring a lawsuit; therefore, you're now entitled to \$95 of actual damages and \$250 million as punitive damages for being the first one to do this. I don't think that's right either. There must be some tie between the two. From the standpoint of enforcement in a tort reform kind of thing, things can be done and they are already on the books.

What do you do as an actuary? How do you enforce ethics? There's a lot of ability from the standpoint of enforcement within society or within the profession. That results by devising some kind of an enforcement mechanism, or taking away the recognition, or saying that this person has not met the basic ethical standards that are required to be a member of the profession.

