



ETHICS: THE ROOT OF COMPLIANCE

What it is. Why it matters.

University of California

Compliance and Ethics Symposium 2019

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*How important are
ethics in today's
society?*



What grade would you give

Congress



Public corporations



Society as a whole



College athletic programs



College students



University administrators



Faculty at your institution.



Your student population.

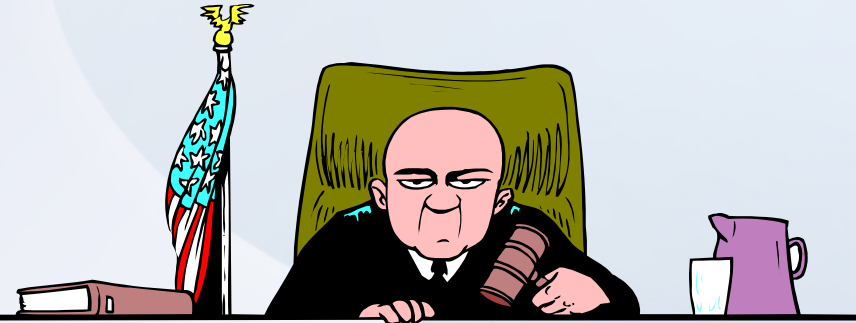


Compliance officers

We judge ourselves by our best intentions, our most noble acts, and our most virtuous habits.



We are judged by our last worst act.





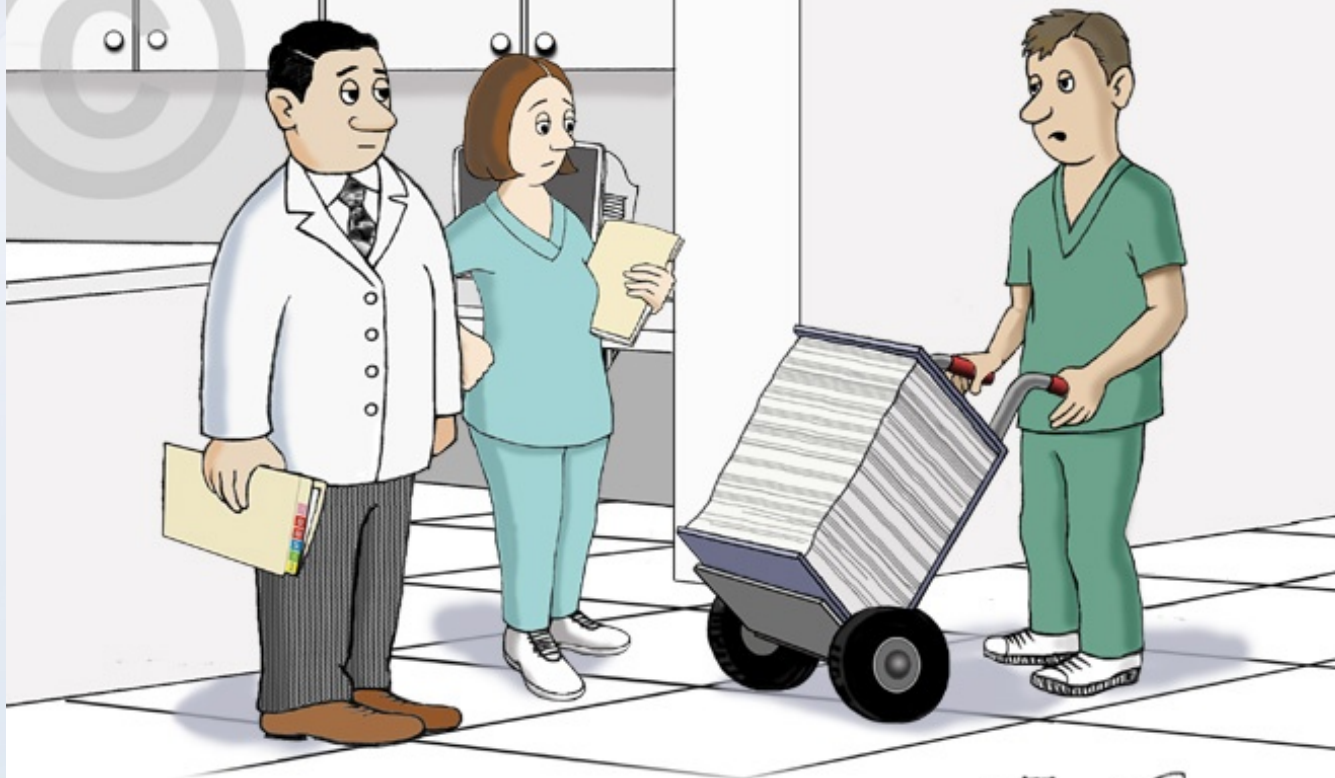
Difference between ethics and compliance

Ethics Is Bigger Than Compliance

Compliance is about doing what you are required to do by laws or rules.

Ethics is about doing what you should do because it is right.

HIPAA Cartoons



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Romero

"We just got an update to the user manual for our Electronic Medical Record system. Where do you want it?"



**EMPLOYEES
MUST WASH
HANDS**

...then take a
polygraph test
to prove that
you actually
washed them.

Yes, we are
really serious
about this.

No kidding.



Sometimes its wise to make rules and warn even about obvious risks



Don't drive off the dock



**Why do we
have to talk
about
something
that is so
obvious?**



Risk Factor: People sometimes do really dumb things



**The antidote:
training, supervision
and discipline**



Beyond Legalism

In today's environment, a narrow legalistic mentality will not only be inadequate, it can substantially increase risks.

Fueled by new laws and intense public cynicism, journalists, regulators, and prosecutors have become more creative and aggressive in bringing charges that can result in huge costs irrespective of technical legalities.

**If we solved
all compliance
problems
would we also
solve all or
most of our
ethical
problems?**

**If we solved
all ethical
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Movement from Compliance to Ethics

In 2004 the Guidelines were amended with the explicit warning that “check the box” compliance programs would be insufficient to justify a sentencing reduction.

Under the revised guideline the judge must find that the program “promote[s] an organizational culture that encourages ethical conduct and a commitment to compliance with the law.”



**There's a big difference between what you
have a right to do and what is right to do.**

Justice Potter Stewart, U.S. Supreme Court

“Compliance is more than looking to the letter of the law Indeed,...many organizations that have compliance programs already describe them as ethics and compliance programs and also employ ‘ethics officers’.... [In fact] it is questionable whether a compliance program can be truly effective if it does not have an ethics component.”

**- Judge Diana E. Murphy,
Chair of the U.S. Sentencing Commission (2002)**

“Experience suggests that good ethics programs and good compliance programs are interdependent; each is incomplete without the other.

“A good compliance program must emphasize values and moral responsibility, because this increases the program’s effectiveness among employees.”

**- Dawn-Marie Driscoll (cited by Judge Diana E. Murphy,
Chair of the U.S. Sentencing Commission in 2002)**

Compliance Centered Hierarchy of Objectives

**Promote
Ethical
Culture**

**Prevent Ethically
questionable
conduct**

**Prevent Unethical (lawful
but awful) conduct**

Prevent Civil liability

Prevent Regulatory violations

Prevent Criminal conduct

Why be ethical?

It's the smart thing to do – avoid criminal and civil penalties, trust and credibility are critical business assets, good companies attract top talent.



It's the right thing to do – individuals and organizations have a moral responsibility to be ethical



It leads to a personally gratifying and sustainable personal life.

Ethics as a risk-management strategy



Don't let your career or the well-being of your company depend on the tip of a 2X4

**Penn State scandal costs
exceed \$44 million**

Cost of Rutgers Scandals

- \$1.2 million settlement agreement for Tim Perneti to resign as athletics director amid the fallout of the men's basketball scandal.
- \$475,000 settlement for Mike Rice, who was fired April 2 after a videotape showed the basketball coach physically abusing and berating his players in practice.
- \$420,000 payout to general counsel John Wolf, who was pressured to resign for advising to suspend rather than fire Rice
- \$150,000 to Hill + Knowlton Strategies, a crisis management firm hired in the wake of the Rice scandal.
- \$70,000 paid to Parker Executive Search, to identify candidates and perform background checks during a six-week search that resulted in the appointment of embattled incoming AD Julie Hermann.
- The \$2.3 million doesn't include the \$575-an-hour rate the university has agreed to pay the law firm Skadden, Arps,

Cost of admissions scandal???

Implications re: other admission practices

ISSUES IN HIGHER EDUCATION

Research

Environment

Sports

Use of funds – by university

Professor issues – copyright, expenses, conduct re: students

Student behavior

Police behavior

ADMISSIONS

Everybody thinks it can't happen here...



Until it does.

How many employees have the power to make decisions that can create legal liability or damage the reputation of your institution?

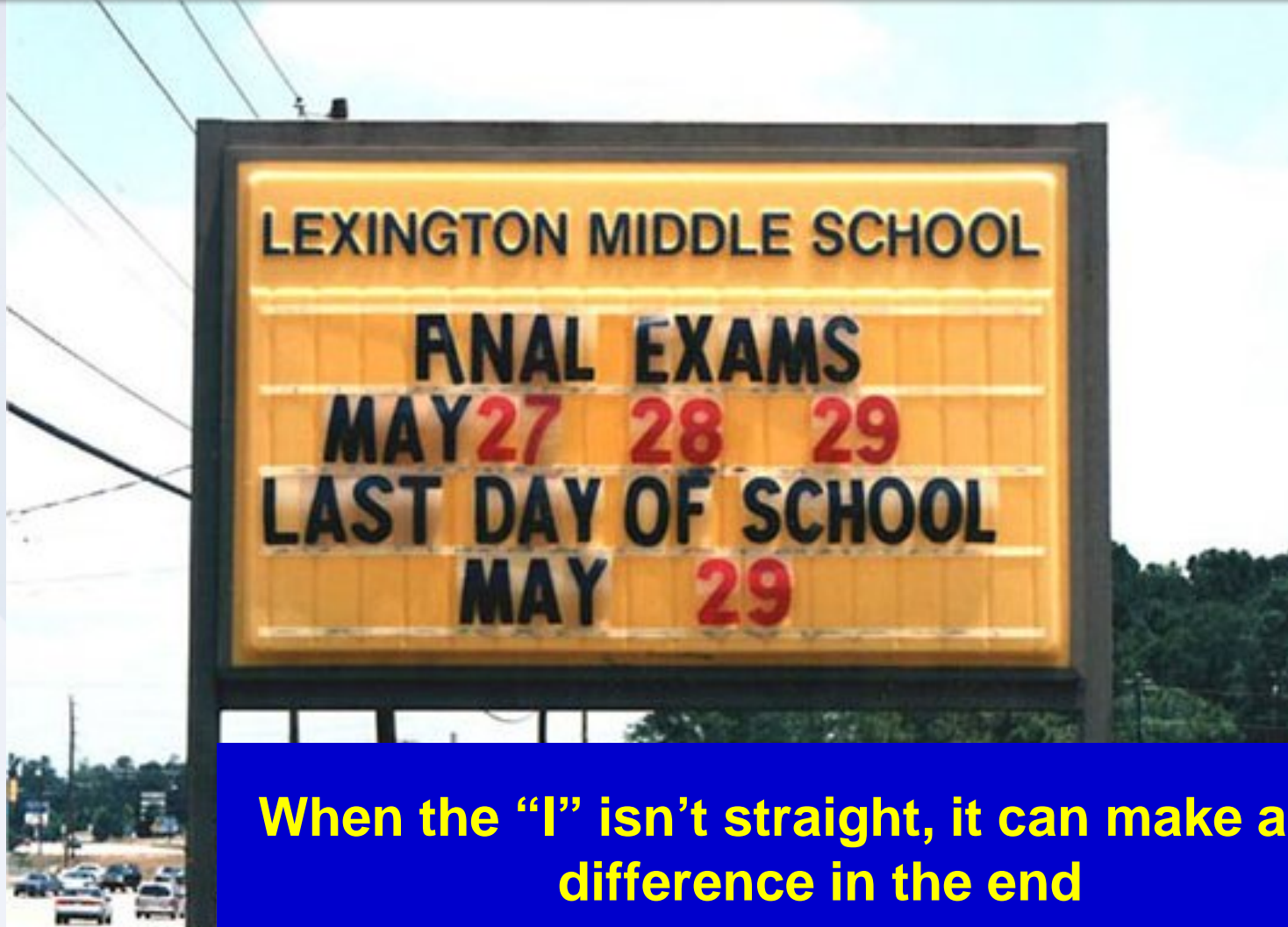


The Law of Big Numbers

In every organization of size there are bound to be some people with bad judgment or weak character – and they may be working for you

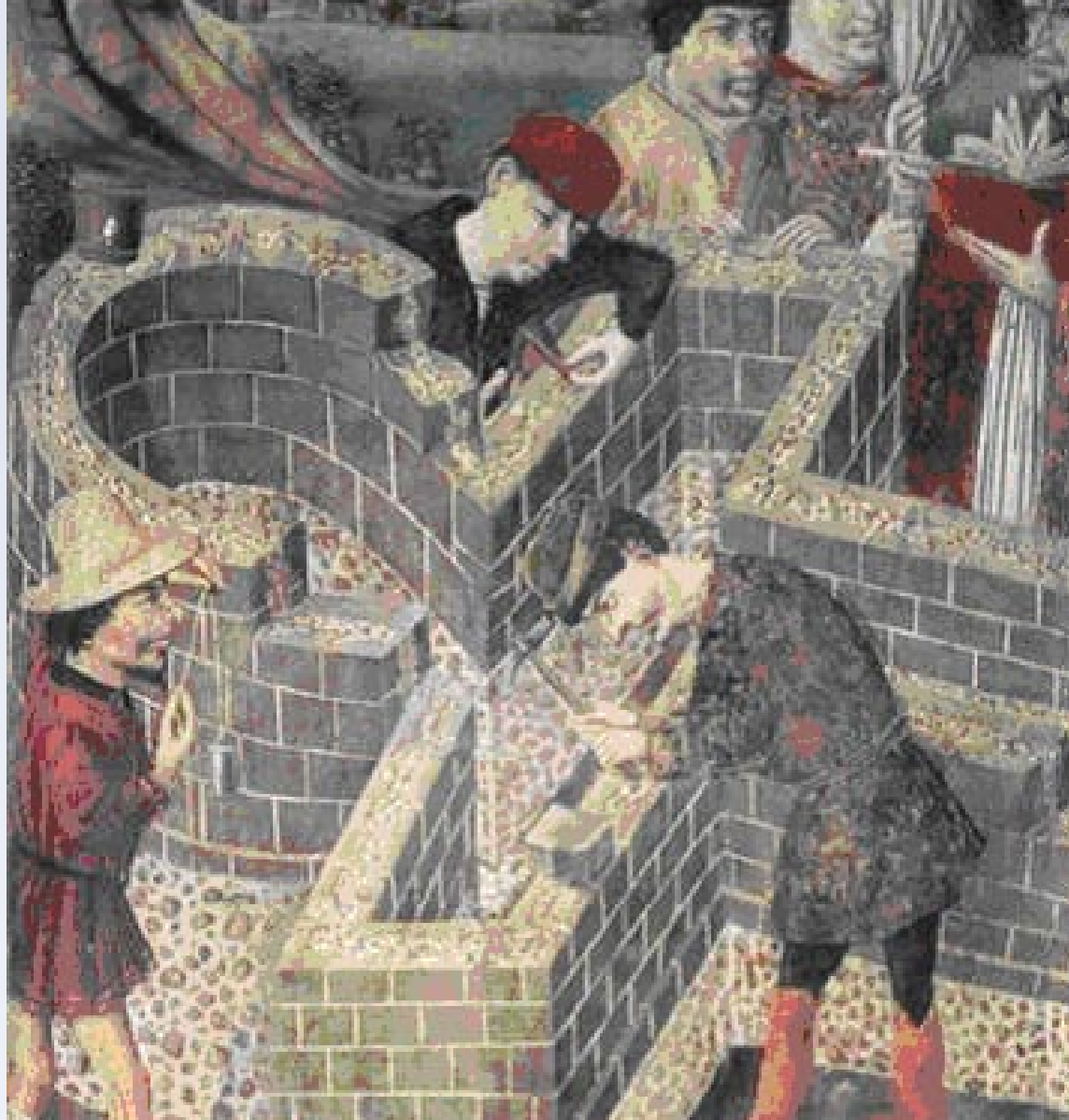


Risks are created or eliminated by the choices and conduct of individuals



When the “l” isn’t straight, it can make a big difference in the end

**AN ETHICAL ORGANIZATION
SEEKS TO INSTILL AND
REINFORCE POSITIVE
MINDSETS**



**Three stonecutters
were asked what they
were doing.**

- **The first man replied:
“I am making bricks
from this stone.”**
- **The second said: “I
am making the
foundation for a
building.”**
- **The third answered:
“I’m building a
cathedral.”**

**So what? What
difference does it make
how a person looks at
his work?**

**If you change your perspective you change the way
you experience the world.**

Born without legs - gymnast



Do you see the arrow?



Do you see the arrow?



How many arrows are there?



**What are
they and why
do they
matter?**

Values

**Beliefs, attitudes and desires that
shape goals and motivate choices**



Ethics is about right and wrong and how an honorable person should behave.



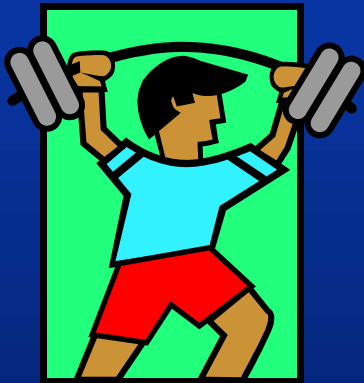
Values refers to all important beliefs. Ethics refers only to beliefs about moral right and wrong.

Values Are Different Than Ethics





- Ethics is not about the way things are.



- It's about the way they ought to be.



- Ethics requires us to give up the idea that an act is proper simply because it is permissible or that an act is ethical so long as it is legal.



- An ethical person often chooses to do more than the law requires and less than the law allows.

You can't avoid ethical responsibilities by ignoring them



"MISS JOHNSON WILL NOW PASS OUT THE MORAL
BLINDERS."

Big E ethics

- core principles about moral right and wrong; what it is to be a good and worthy person/institution

Little E ethics

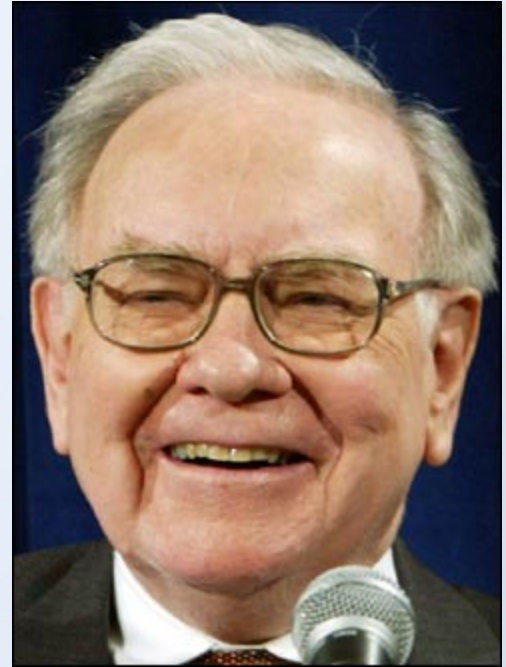
- laws and rules (compliance ethics); gifts, conflicts of interest, etc. The Professional Code of Conduct

If an organization focuses only on compliance it will find people constantly pushing the line since they don't understand the difference between what they have the right to do and what is right to do.

Individuals get seduced by the notion of legalisms with, “Can I do this?” instead of asking the question “Should I do this?”

Warren Buffet:

“I look for three things in a new hire: energy, creativity and integrity. But if you don’t get the last thing, the first two will kill you.”



Integrity



Integrity includes but goes beyond honesty.

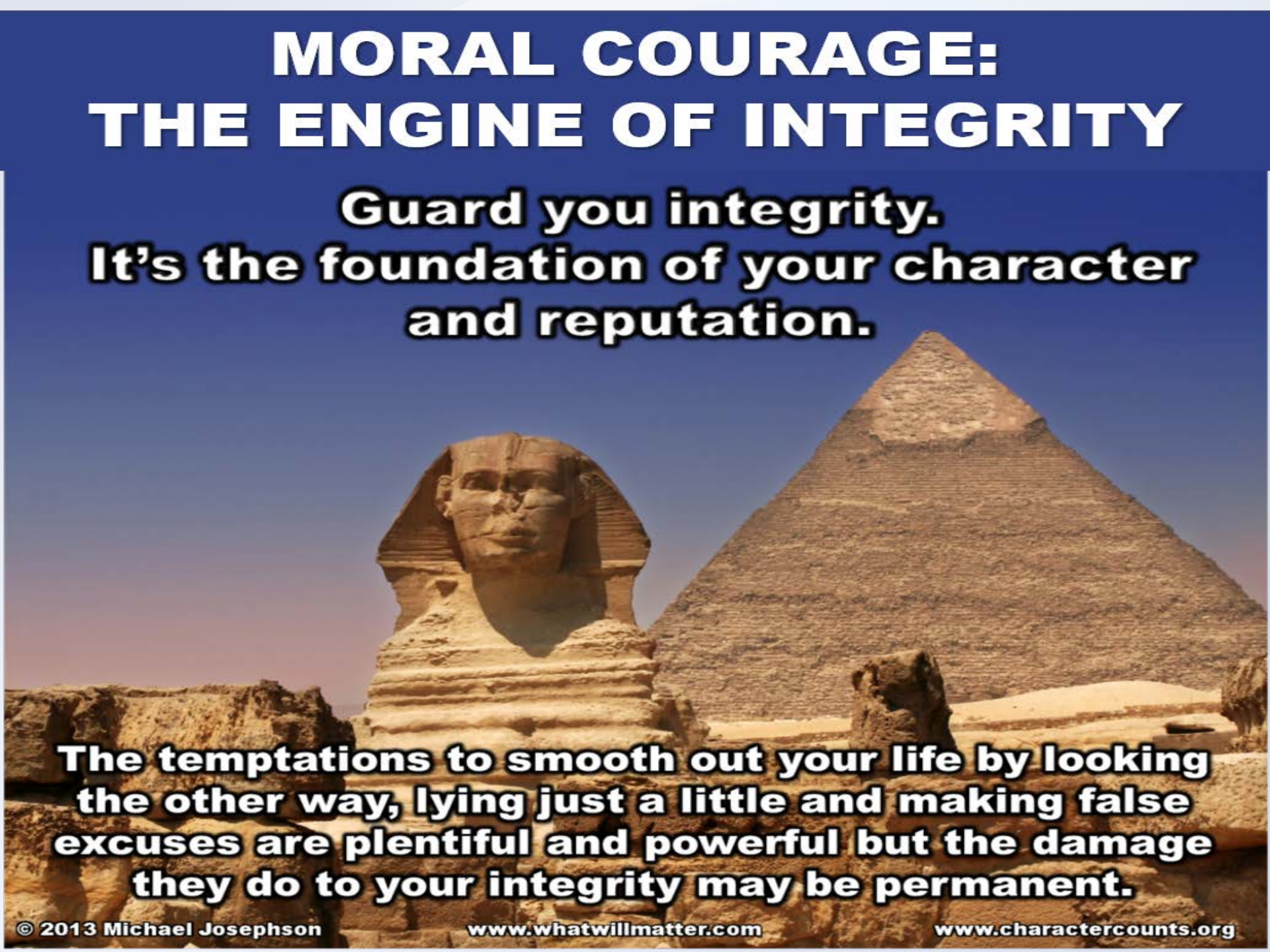
It incorporates the notion of adherence to moral and ethical principles, uprightness and sound moral character.

Also refers to the state of being whole and undivided.

Thus, integrity requires high ethical values and a consistency between words and actions.

MORAL COURAGE: THE ENGINE OF INTEGRITY

**Guard your integrity.
It's the foundation of your character
and reputation.**



**The temptations to smooth out your life by looking
the other way, lying just a little and making false
excuses are plentiful and powerful but the damage
they do to your integrity may be permanent.**



Find people with a moral compass and you won't have to emphasize compliance.

A well-designed progressive compliance program should be designed to educate, inspire, and enforce all the behavioral standards of the organization, especially those that are deemed so important that they are labeled as core values.

The Chief Integrity Officer would be more than a cop whose sole job is to prevent and detect crime; he/she would also be the official conscience of the organization. And if done well, the Chief Integrity Officer could play a major role in helping the organization achieve its highest potential by education, assessments, training and oversight regarding the organizations full set of core values.

If you could interview the people who would date and might marry your children, what qualities are essential to you?



Six Pillars of Character

TRRFCC



Trustworthiness



Respect



Responsibility



Fairness



Caring



Citizenship

**But what does this have to do
with the ethics in your organization**

**What does management want
from employees?**

**What do employees want from
their managers?**

**What does the public want and
expect from its universities?**

The Five Principles of Public-Service Ethics

Public Interest:

- Public office is a trust to be used only to advance public interests, not personal gain.

Objective judgment:

- Make decisions on the merits, using only proper criteria without partiality or prejudice and unimpeded by conflicts of interest.

Accountability:

- Conduct government openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.

Democracy:

- Honor and respect democratic principles and observe the letter and spirit of laws in good faith.

Respectability:

- Safeguard public confidence in the integrity of government by avoiding the appearance of impropriety and conduct unbefitting a public official.

The Six and the Five



UC VALUES

As stewards of the public trust, we believe in ethical behavior, inclusiveness, treating each other with respect, accountability and transparency.

Each UC location has stated Principles of Community reflecting the ideals they seek to uphold

Principles of Community Office of President

- UC Office of President is committed to promoting an environment that supports every person in an atmosphere of mutual respect, cooperation, professionalism, and fairness.
- We strive to be:
 - Service-oriented.
 - Ethical/Integrity
 - Open
 - Diverse
 - Just
 - Caring
 - Commemorative

Teach

Enforce

T.E.A.M.

Advocate

Model

In an ethical culture,
ethical principles
are embedded
in the DNA of
the organization



How does a healthy body deal with an infection (an antigen)?

Our immune system consists of white blood cells which produce antibodies which attack, surround and consume the antigen.

In a healthy organization detrimental attitudes and behavior are surrounded and overcome by values-driven employees who act as anti-bodies.

In a healthy organization most forms of misconduct are prevented or limited without any need to report the activity.

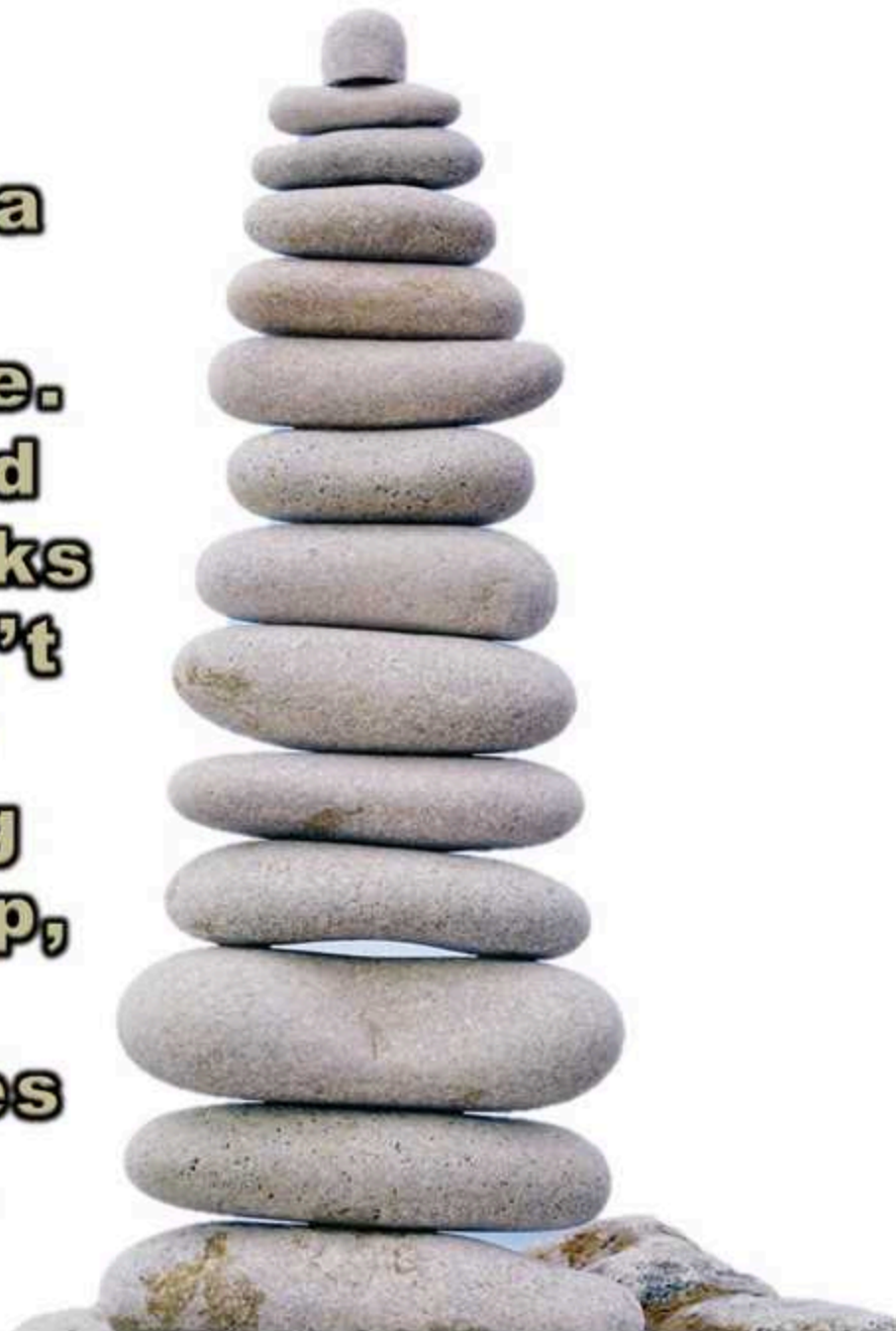


12 Truths About Lying

1. Honesty may not always pay, but lying always costs.
2. Trust is a tower, built stone by stone, lies take stones from the bottom.
3. There is no security in secrecy; every undiscovered lie is a live landmine.
4. Lies breed a bodyguard of new lies to protect themselves.
5. Lies look very different to the person lied to than the person telling the lie.
6. Rationalizing, justifying or trying to minimize a lie only deepens distrust.
7. When we are lied to we wonder: "What else have you lied to me about?"
8. It only takes one lie to make you a liar or distrust someone who lied to you.
9. Apologies for lying help but they can't remove the scar or heal the wound.
10. You can't disguise lies in half-truths or silence; a lie is a lie.
11. Lying is not only dishonest; it's disrespectful.
12. When you lie to a liar you're still a liar.

- Michael Josephson

**Trust is built like a
tower of stones,
one stone at a time.
But when a trusted
person lies or breaks
a promise it doesn't
just diminish the
tower by removing
stones from the top,
it demolishes it
by removing stones
from the bottom.
Michael Josephson**



AN ETHICAL ORGANIZATION
PROMOTES FAIRNESS

Equality



Equity





AN ETHICAL ORGANIZATION
PROMOTES EMPATHY AND
COMPASSION AND RESPECT





**People will forget
what you said.
People will forget
what you did, but
people will never
forget how you made
them feel.**

Expressing appreciation – I believe in

y



**AN ETHICAL ORGANIZATION
ENCOURAGES AND
FACILITATES A REASONABLE
WORK-LIFE BALANCE**

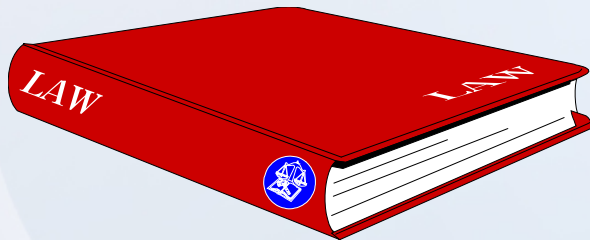
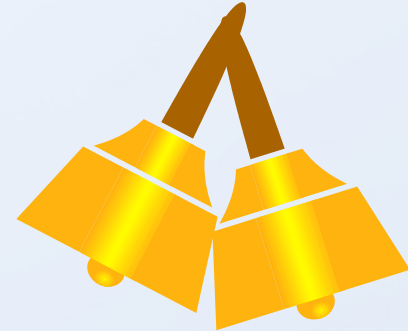




CHOICES

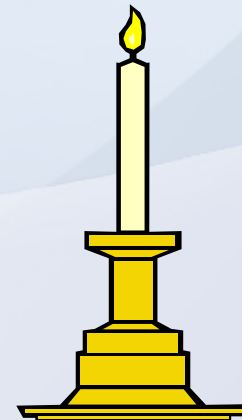
Bell, Book and Candle

- Listen for the bells warning you of an ethical issue.



- Check to see if there are any laws, regulations or rules which restrict your choices.

- How will your decision look in the light? Could a reasonable, fair-minded person conclude you acted improperly?



**Outcome:
Decision-
Making**

Effective

Ethical

**Best Possible
Result**

Rational Decision-Making Versus Rationalizations

The difference between a rational decision and a rationalization is based on when the reasoning process takes place.

In a rational decision one reasons first in order to reach a conclusion.

In a rationalization the reasoning process is used to justify a conclusion or decision.

The Doctrine of Relative Filth



“I’m not so bad as long as other people are worse.”



When confronted by an approaching bear

***I don't have to out run
the bear . . .***



***I just have to
out run you!***

WHOSE PROBLEM IS IT?



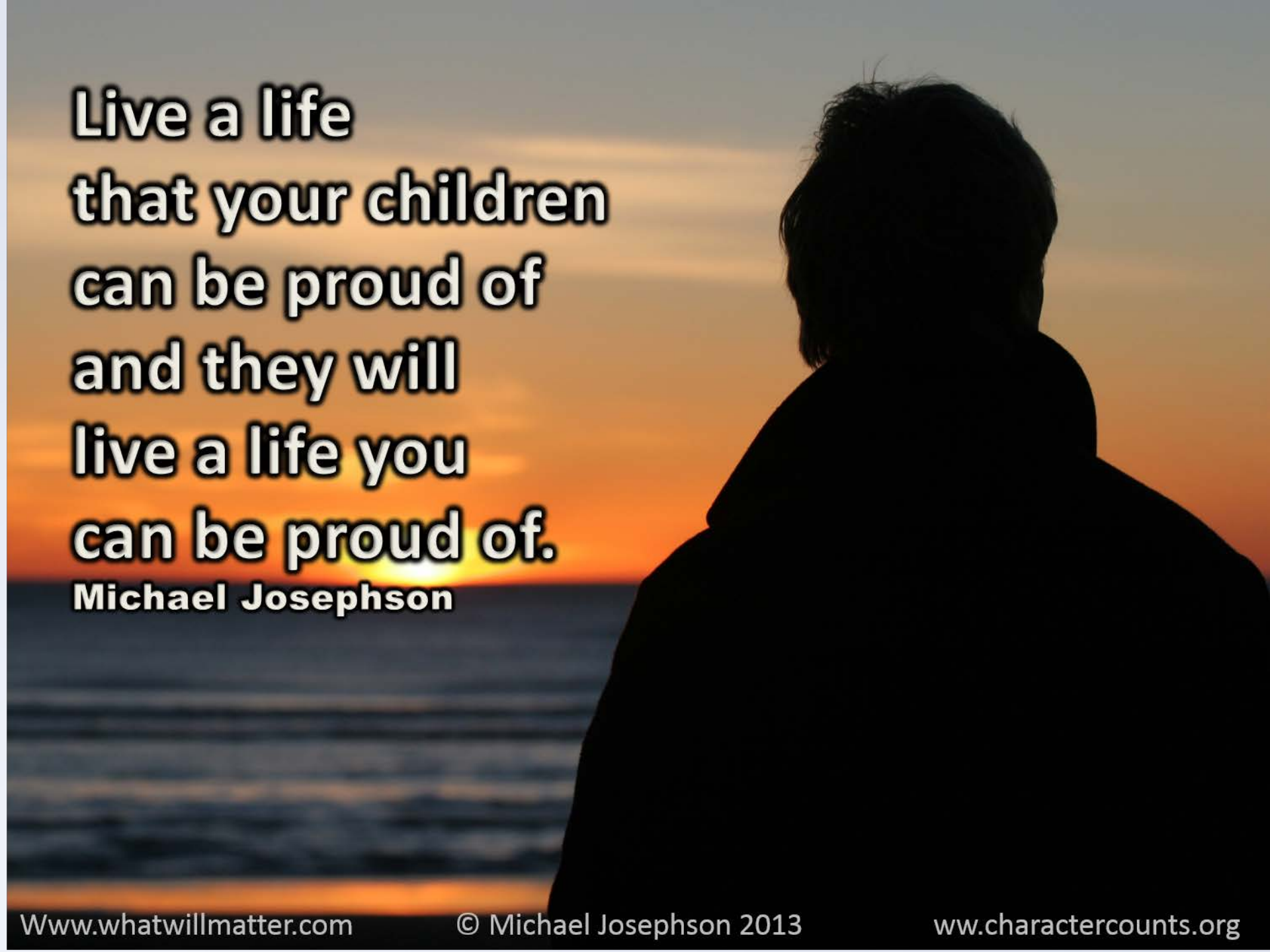
“I can’t sleep. I’m supposed to pay Charlie \$5000 we owe him tomorrow and we don’t have the money.”



Born without legs – gymnast 1:40

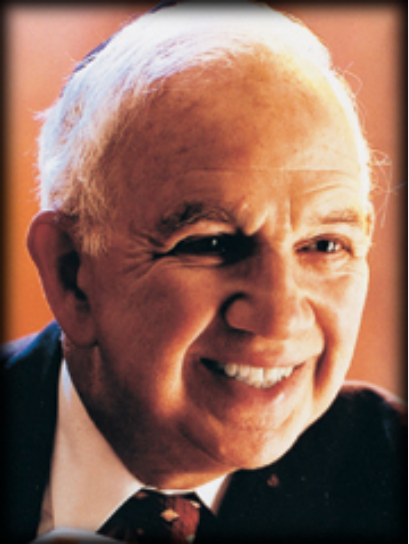


***If you want to
know how to live
your life, think
about what you'd
like people to say
about you after
you die – and live
backwards.***

A silhouette of a person with long hair, seen from the back, looking out at a sunset over the ocean. The sun is low on the horizon, creating a bright orange glow that reflects on the water. The sky transitions from orange near the horizon to a pale blue at the top. The person's silhouette is dark and occupies the right side of the frame.

**Live a life
that your children
can be proud of
and they will
live a life you
can be proud of.**

Michael Josephson



“Our souls are not hungry for fame, comfort, wealth or power. Our souls are hungry for meaning, for the sense that we have figured out how to live so that our lives matter, so that the world will be at least a little bit different from our having passed through it.” - Harold Kushner

**Will your
actions make
a difference?**



**It does to
this
starfish**



WHAT WILL MATTER

By Michael Josephson © 2003

Ready or not, some day it will all come to an end.

There will be no more sunrises, no minutes, hours or days.

All the things you collected, whether treasured or forgotten will pass to someone else.

Your wealth, fame and temporal power will shrivel to irrelevance.

It will not matter what you owned or what you were owed.

Your grudges, resentments, frustrations and jealousies will finally disappear.

So too, your hopes, ambitions, plans and to do lists will expire.

The wins and losses that once seemed so important will fade away.

It won't matter where you came from or what side of the tracks you lived on at the end.

It won't matter whether you were beautiful or brilliant.

Even your gender and skin color will be irrelevant.

So what will matter? How will the value of your days be measured?

What will matter is not what you bought but what you built, not what you got but what you gave.

What will matter is not your success but your significance.

What will matter is not what you learned but what you taught.

What will matter is every act of integrity, compassion, courage, or sacrifice that enriched, empowered or encouraged others to emulate your example.

What will matter is not your competence but your character.

What will matter is not how many people you knew,
but how many will feel a lasting loss when your gone.

What will matter is not your memories but the memories that live in those who loved you.

What will matter is how long you will be remembered, by whom and for what.

Living a life that matters doesn't happen by accident.

It's not a matter of circumstance but of choice.

Choose to live a life that matters.