I am not here to teach you ethics! Only you can define your ethics. Make no mistake people judge your ethics daily. Your clients will throw things at you to test your ethics to see if they approve of you or not. We individually have to make our own decisions. We do look to Circular 230 to guide us on the laws involved in our practice. Let’s look at some definitions.

**Morals:**

Rules or habits of conduct concerned with judgment of goodness or badness of human action and character

**Ethics:**

The study of standards or conduct and moral judgment. The system or code of morals of a particular person.

**Ethics (per Homer Simpson):**

There is nothing wrong with hitting someone when his back is turned.

We as humans created the terms of ethics and morals in order to attempt to quantify or rationalize other people’s actions or inactions. At the end of the day only we can make a decision on what is right or what is wrong. Obviously society and the courts will decide whether or not an action or inaction rose to the level of criminal activity or professional neglect. As we all know we can take an aggressive stance on a deduction on a tax return and be hit with a preparer penalty. Is this a matter of ethics or is this a matter of poor judgment on a professional level? The purpose of this course is to help bring to the surface a consensus based on everyday accounting situations which I feel bring ethics into question. This way an individual can look at his or her own decision on a certain situation and be able to make a more informed decision with the goal of getting it “right”. At this time I would like for us to break into our discussion groups and begin with the situations at hand.

Homer Simpson says “Facts are meaningless. You can use facts to prove anything that is even remotely true.”
Situation #1 – CUI Bono

A representation client Mr. Smith comes to you with his corporation 941 liabilities of $100,000. There are 3 officers/directors/shareholders. Mr. Smith is the only contact; he pays the fees on the case. You work out with the IRS that the corporation can only pay $500 per month on the back taxes. When the IRS sends proposed Trust Fund Recovery Penalty Notices to each of the 3 owner’s homes, the other 2 officers contact you demanding explanations. You calm everyone down and set up a meeting with all 3. During the meeting it is discovered that Mr. Smith’s total net worth is about $.05. He borrows money from his 10-year olds piggy bank. Partner B’s net worth is $15,000 and Partner C’s net worth is $60,000. Officer C is clearly not happy and asks what you have done for the fees that his corporation has paid you – you have not resolved anything! What do you answer to:

A. Mr. Smith

B. Partner C

C. Your partner/boss
Situation # 2 - The “D” word

You have been preparing the 1040’s for Mr. & Mrs. Perfect for the last 20 years. Their 3 young kids love the fish tank in your office. Mr. Perfect loves your female staff. You have put their 2009 1040 on extension because the Perfect’s planned a long family/romantic cruise in April. Come October 1, Mr. Perfect sends you an e-mail asking you two things:

1. What happens to the return if he and Mrs. Perfect had in fact split up on September 1? (She stayed in Mexico)
2. Your receptionist’s phone number

Given that they have a Schedule A, what are the Schedule A issues?

What are the dependency issues?

He wants to review the Married Filing Separate issues and a simple 50/50 on the Schedule A reveals that she would owe a lot of money but he would get a refund. Do you need to do anything with the Schedule A?

What do you say to:

A. Mr. Perfect

B. Mrs. Perfect

C. The receptionist
Situation # 3 – Mr. Happy ain’t smilin’ no more

Because I specialize in collections, I have to throw you some representation situations. You love Mr. Happy. He is a great client. He is a retired person, cancer survivor, widower; he works for the local food pantry for the homeless, donates blood, always has a smile on his face and is an all around swell guy. You wish your sister would date this guy (so she stops barging in for free meals) however he owes back income taxes of approximately $100,000 that his wife “left” him from her old sole proprietor business. He has been denied Innocent Spouse. You never thought he got a fair shake on anything that has happened to him so far in this case. He has nothing. He does have a local Revenue Officer who wants the 433-A on Tuesday.

You will do an IRS Offer in Compromise for him. However, as you are filling in the IRS Form 433-A, Collection Information Statement for Individuals, and going through the required 3 months of documentation you discover an interesting item in one of his bank statements. In your discussion with him, you ask him why his bank statement, period ending 9/20/10, you discover a $76,000 deposit on 9/9/10 and a $76,000 withdrawal out of the account on 9/10/10. He tells you that he really, really needs this money. It is all he has left. The money was from the sale of his recently deceased brother’s Florida house in September 2010. The house was deeded to him many years ago, but during the heated discussions with his brother’s two children he simply did not want to bring legal action against his brother’s survivors. He in no way shape or form would want to sue his nephew or niece over it. He agreed to split the equity in the house so that he would not need to bring a lawyer into the situation. Additionally, since the kids had no money whatsoever he was required to dump about $20,000 to repair the house and pay property taxes prior to sale; although we have no idea where he got that money.

You inquire of him as to the disposition of the $76,000. His answer, “Well I paid my sister back the money she lent me to pay my medical bills when I had cancer. I do have about $40,000 left.”

“Where is it?”

“At home.”

After about 10 minutes of him waving his hands in front of you and asking why you have that stunned look on your face you tell him that you really need some time to think about this given that he was coming to your office to sign the 433-A so that it could be given to the Revenue Officer in the next couple business days.

Do you give the IRS the required 3 months of bank statements?

How do you prepare the 433-A section which requests an answer to “In the past 10 years, have any assets been transferred by the individual for less than full value?”

What do you tell him?
Situation # 4 – Have you really given up as a tax protestor?

Mr. Jerk comes to you after he hears you speak at a #10 Local Electrician Union Hall. He tells you that he got conned into believing that Union workers don’t have to pay taxes. He filed 2006 and 2007 as “0 income, I am a patriot” and got his huge refund checks from the withholding that was taken out of his pay check “illegally” by his line of thinking. The IRS later caught him and assessed him the back income taxes. He now sees the error of his way and wants you to file his 08 and 09 1040’s the appropriate way and get his wage levy released immediately.

He pays you 1/3 of the retainer (he is a referral client after all) and promises tons of other referrals of other Union guys he knows in similar situations. You immediately get the 1040’s prepared and manage to get the levy released within 2 weeks of when he hired you.

Now the weirdness starts. A staff member who calls for fees is asked by him “What did you do for me? He didn’t settle anything! I could have gone down the street and had returns done. I never wanted my income and assets disclosed to the IRS! I am not paying you another dime! I want my money back, you are fired and I am reporting you to the Union Board because whoever suggested you speak at our function is in big trouble.” He makes a formal Better Business Bureau complaint.

Can you include any details in your answer to the BBB complaint?

How do you defend yourself?

What do you say to the guy who had you speak at the meeting?

What do you say to the Revenue Officer who is still on the case with you?

Do you return his money?
Situation # 5 – Part of the Study of Ethics is answering the question “Who must I report to?”

Your business partner tells you that Client X is a type of person that will burn your time and even may stiff you on the bill. The client has what appears to be an ordinary interview and you agree on a fee equal to the fee that your firm had charged him last year. This fee includes a Schedule E preparation. You are done drafting the return when the client faxes you tons of Schedule E expenses which he previously failed to mention. There is so much information that you elect to pull an employee off of a task to complete calculations for the Schedule E. Of course it is April 14 and the client was clear with you that he did not want to file an extension. At this point he only paid half the invoice. The phone rings in your office. Your partner happens to answer the phone and screams across the office, “It’s client X on the line, what are you doing for that guy?”

What do you say to your partner?

Do you re-quote fees for Client X?

Do you insist on filing an extension?
Situation # 6 – To E or not to E (file)

You are fairly sure that your e-file client is not telling his wife about the 1040’s that you e-file. There are not any problems on the returns (he is a little aggressive on his S Corp Business expenses). The E-File authorization signatures kind of look alike......here’s the question, do you say anything to anybody?