

# Fences as Controls to Reduce Accountants' Rationalization

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**Abstract** Occupational fraud frequently involves the direct or indirect participation of professional accountants (PA). To reduce fraud, companies often focus on the incentive/pressure and opportunity legs of the fraud triangle, perhaps believing that rationalization is beyond their control. We argue that rationalization reduction is necessary to minimize occupational fraud. We propose that educators and PA consider incorporating fences as controls to reduce rationalization. Because they focus on compliance and risk avoidance and are non-negotiable, fences appeal to accountant's Myers Briggs personalities and conventional level of moral development. Educators can teach students about the fences used in practice, and explain how they help new professionals resist pressures and temptations. By adding fences to existing professional guidance, accountants can reduce the likelihood that they will be a party to fraud.

**Keywords** Ethics · Fraud · Business and accounting education · Internal control · Fences

## Introduction

Economic pressures on corporations and individuals, and a reactionary regulatory system, expose professional accountants (PA) to an increasingly risky environment. Under the current system, income gains and economic prosperity have accrued disproportionately to the top 5 % of the population, which will likely continue (Stone et al. 2013). These pressures, coupled with individuals' opportunities to commit unethical acts while acting as corporate agents, shielded from personal responsibility,<sup>1</sup> cause undeniable pressures on PA, whom external stakeholders and the public entrust to safeguard assets and report on company results.

Occupational fraud,<sup>2</sup> estimated to cost organizations about five percent of annual revenues (ACFE 2014), often involves PAs' direct or indirect participation.<sup>3</sup> In addition, per a semi-annual survey of occupational fraud cases, about 82 % of perpetrators had “never been previously punished or terminated by an employer for fraud-related conduct” prior to perpetrating the detected fraud (ACFE 2014, p. 5). These statistics indicate that while fraud is costly, perpetrators are not inherently bad, but may be reacting to situational factors, rather than engaging in intentional, predatory behavior. The Milgram (1974) experiments

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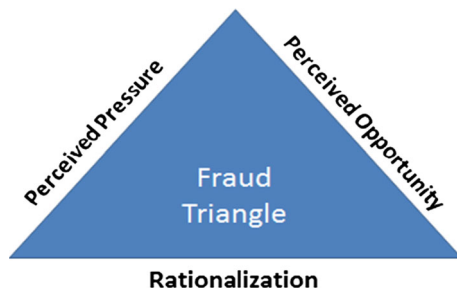
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<sup>1</sup> See *Trustees of Dartmouth College v. Woodward*—17 U.S. 518 (1819), *Santa Clara County v. Southern Pacific Railroad* - 118 U.S. 394 (1886), and *Citizens United v. Federal Election Commission*—558 U.S. 310 (2010).

<sup>2</sup> “...the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets” (ACFE 2014, p. 6).

<sup>3</sup> Accounting department employees are responsible for the greatest percentage of occupational frauds detected: 17.4 % in 2014, and 22 % in 2012 and 2010 (ACFE 2014).



**Fig. 1** The Fraud triangle

exemplify how in certain situations, pressure, and rationalization can lead otherwise ethical people to act unethically. In the business world, Kranacher et al. (2010) describe such individuals as “accidental fraudsters.” They are otherwise good people who find themselves under intense pressure and with sufficient opportunity to commit fraud.

Cressey’s (1973) interviews with convicted embezzlers found that rationalization is a necessary antecedent of fraud, and those who built on his initial research included it in a fraud model, (i.e., the fraud triangle). The legs of the fraud triangle (as shown in Fig. 1) include perceived pressure, opportunity, and rationalization (Albrecht 2014). Since the development of this model, Hogan et al. (2008), Nigrini and Mueller (2014), Trompeter et al. (2013, 2014), and others have shown how, as a widely accepted theory, the fraud triangle explains much occupational fraud and helps people identify ways to reduce it. Trompeter et al. (2014) add that Naylor’s (2003) expansion of a “one size fits all” fraud triangle evolved from Cressey’s original ‘theft of cash by deception’ to include incentives to commit more organizationally oriented (and more difficult to detect) fraudulent financial reporting—e.g., to meet earnings targets.

While some may equate the ability to rationalize fraud with “bad character,” Heath (2008) rejects popular reasons for why business people commit fraud (e.g., character deficiency, greed, or ignorance of the law). Rather, to commit fraud, individuals must reduce the discrepancy between their actual self (potential fraudster) and their ideal or ought self (ethical person) via self-regulatory processes (Crowe and Higgins 1997). Moral disengagement—“a form of moral self-deception that allows individuals to justify unethical behavior and avoid self-censure” (Welsh et al. 2015, p. 116) supports this form of rationalization. Borrowing from the criminology literature, Heath (2008, p. 611) suggests that business people use “techniques of neutralization” to justify their unethical behavior before they engage in it. That is, “the way individuals conceive of their obligations—and the neutralizations that are made available to them by aspects of their situation—is an enormously important factor in the decisions that they

ultimately make.” Competition, bureaucracy and other business environment characteristics encourage and support excuses such as, “I am taking from a company, not another person,” or “everyone else in business does it” (Heath 2008). Welsh et al. (2015) also explore the slippery slope concept, showing that unethical behavior often starts small, and grows over time. Further, Bhattacharjee et al. (2013) apply self-rationalization from the psychology literature to define moral rationalization as the process of people reconstructing immoral actions to justify their actions post hoc to address the cognitive dissonance that may encroach when they think back on their questionable behavior.

Methods to reduce unethical behavior, including fraud, often ignore rationalization. Rather, prescriptions for fraud prevention focus instead on identifying incentives/pressures (e.g., financial distress, living beyond means, addictions) and reducing opportunity (e.g., implementing internal controls). These two visible legs of the fraud triangle garner attention as they are somewhat under management’s control. Write-ups of business failures (e.g., Enron, WorldCom, and HealthSouth) clearly identify the red flags of pressure: bonuses based on meeting financial targets and executive stock options. They also identify the control weaknesses that provide the opportunity for fraud: management override, no segregation of duties, impaired auditor independence (e.g., see Albrecht et al. 2004; Grove and Cook 2004; Weld et al. 2004; Lee and Ho 2005). However, explanations of rationalizations and their role in fraud, perhaps because of their hidden and personal nature, are routinely undiscussed.

While some business scandals are traceable to small groups of individuals acting alone, others represent widespread moral failings (e.g., the mortgage loan crisis involved investment bankers, mortgage brokers and agents, plus customers). Whether committed by individuals acting alone, or through collusion, all frauds require people to morally disengage, or rationalize their behaviors, suggesting that we look more closely at how to reduce the likelihood of this fraud antecedent, and how actions from within, namely from accounting ethics education and the profession itself, may provide a more effective solution.

This paper explains how accounting educators and professionals can incorporate fences as a self-regulatory mechanism to reduce the risks that accountants will commit occupational fraud. As a preventive tool, fences are formal or informal rules that represent communal expectations for behavior. Unlike laws, fences have no sanctioned formal punishments; however, violators face potential serious negative reputational repercussions. Building on Gentile’s (2010) suggestion to reframe rationalizations to align with underlying values, the

profession can incorporate fences to remind accountants of their professional values, keep them from temptation,<sup>4</sup> and help them resist pressures by giving them a reason for saying “no.”

While accountants may develop ethical awareness and higher moral development over time, we recognize that they will face immediate pressures upon employment. Thus, educators can apply the concept of fences to help accounting students understand social and organizational expectations, easing their introduction into the profession or corporate life. Professional accountants who develop respect for, and understanding of, fences will have a solid foundation to help them resist inevitable pressures. The profession should develop and implement specific, non-negotiable fences that rest on underlying professional values, to protect PAs from yielding to pressures, and to begin to restore accounting's position as a learned and trustworthy profession.

We discuss accountants' susceptibility to rationalizing unethical behavior, describe the concept of fences, and then explain how fences are an appropriate fit for accountants. We then provide several examples of current fences, and recommend new fences that appear promising.

### Accountants' Susceptibility to Rationalization

Individuals mature over time, progressing through stages of moral development (Kohlberg 1981)—which ethics education can positively affect (Langenderfer and Rockness 1989; Rest 1982). Ponemon (1993) adds that ethics education can help restore the accounting profession's credibility and instill ethical behavior in its students. Individuals with higher levels of moral development rely on judgment over application of technical standards (Ponemon and Gabhart 1990; Sweeney and Roberts 1997), and can better resist client pressures (Jackling et al. 2007), while those with lower levels of moral reasoning respond to economic variables and self-interest (Bernardi 1994; Windsor and Ashkanasy 1995; Ashkanasy and Windsor 1997).

While ethics education that seeks to develop higher levels of moral reasoning should reduce fraud, the continuing instances of fraud suggest that ethics education alone is simply not enough. Given their short time in college, students are unlikely to reach the upper echelons of moral development, even with their professors' help. Indeed, strong evidence shows accountants generally not progressing beyond conventional levels of moral development, even after graduation. They are more similar to the general adult population in terms of moral development,

whose level is conventional (Treviño 1986); in facing ethical dilemmas, they usually are rule-followers. Further, accountants score below other professions on the Defining Issues Test, an instrument that measures moral development (Armstrong 1987; Eynon et al. 1997).

Beyond moral development, accounting students (and those who enter the profession) consistently have a high STJ disposition on Myers-Briggs personality tests (Briggs et al. 2007). The S stands for Sensing, (the opposite of Intuition), and those who score high on sensing perceive facts or data making up the world; they are detail-oriented. The T stands for Thinking (the opposite of Feeling). “Thinking types use logic or a rational approach to making decisions” (Briggs et al. 2007, p. 515). Thinkers seek objectivity to reason through situations. J stands for Judgers (the opposite of Perceivers), who make decisions and strongly commit to them. They will not change their minds easily. Accountants' personalities are also unlikely to change; they have remained consistent, despite changes in curriculum designed to attract diversity. In fact, for eight consecutive years, accounting students have become more STJ, rather than less (Kovar et al. 2003). Abdolmohammadi et al. (2009) add that accountants' dominant, cognitive make-up has remained stable for 15 years.

Accountants' conventional levels of development and their strong STJ personalities suggest that they may be particularly susceptible to rationalizing fraud or other unethical behavior. Murphy and Dacin (2011) propose three psychological pathways to fraud; two are relevant here. Both arise when the accountant knows the action is fraudulent but either 1—makes a gut decision to proceed and can quickly come up with a valid rationalization, or 2—is unsure about what s/he wants to do, and works through a reasoning process to come to a decision. In the first case, accountants' judging personality trait makes it likely that once they have decided to commit fraud, they will look for confirmatory evidence—their judging nature will make it difficult to dissuade them. In the second case, their thinking and sensing natures come into play, causing them to search for detailed, specific rules that address their exact situation. If they find no explicit rules prohibiting a specific action, they may proceed unhindered. If relevant rules exist, because accountants perceive the rules as detailed facts, rather than principles or standards, the relevant rules must explicitly prohibit the action. Their thinking tendency will cause them to apply logic in an orderly approach, and they may miss the forest (unethical action) for the trees (looking for an explicit prohibition that exactly matches the situation).

Accountants' strong belief in justice and fairness could encourage rationalizations such as, “everyone else is doing it” and “as long as I follow the same rules as everyone else, it is a fair game.” Haidt and Graham (2009) note that

<sup>4</sup> Tang and Sutarso (2013) provide an in-depth analysis of temptation, and its relationship with unethical intentions.

this behavior is likely to arise when individuals treat relationships as exchanges, when a personal cost/benefit to each independent interaction exists. Exchange relationships allow individuals to isolate fraud events from other decisions.

## Fences

### Common Values and Protections from the Slippery Slope

As noted earlier, fences are informal or formal customs (social expectations) that keep individuals from temptation, shield them from pressure, and limit their opportunity to rationalize. While individuals may actively try to do good, ethical issues are often hidden (Bebeau et al. 1995), and people may fail to identify them (Jackling et al. 2007; Murphy and Dacin 2011). Individuals face strong survival instincts that could overwhelm social interest or blind them to it. Since they are non-negotiable and generally accepted, fences provide an effective control for such situations (i.e., failure to identify moral dilemmas). We posit that fences work to reduce unethical behavior by increasing social cohesion (they are simple and clear enough so that all “buy-in”), and that individuals will comply with fences to build and maintain their reputations (or avoid reputational damage).

Social cohesion, a determinant of a society’s success, includes the absence of latent social conflict<sup>5</sup> and the presence of strong social bonds (Kawachi and Berkman 2000). Because fences are socially developed and agreed-upon customs, they both arise from and reinforce strong social bonds. Fences thus form an important aspect of a self-regulatory framework to help individuals contribute to social cohesion. Rather than viewing choices from an exchange perspective (i.e., as an economic game), fences work from a community aspect. Haidt and Graham (2009) suggest a communal relationship structure to help individuals recognize that unethical behavior will have future negative consequences for themselves and for their communities. Kish-Gephart et al. (2014) echoes this approach, finding that (in the presence of relatively moderate personal incentives) providing a reminder of “harm to others” reduces situational moral disengagement.

Unlike standards that depend on professional judgment, fences do not allow for rationalizations or reasoning, but rather rely on interpersonal connectedness and trust. In a contemporary sense, Woods and Lamond (2011, p. 673) equate this with “...following the social norms of polite conduct when interacting with others.” In becoming part of

<sup>5</sup> Income inequality, a form of social conflict (Kawachi and Berkman 2000) may both arise from and pressure people to commit fraud.

the culture, fences create both positive social pressures (as people comply with them) and negative social pressures (as fence-jumpers suffer social and professional repercussions). Joosten et al. (2014, p. 72), moral decisions “occur in a social context” which reputational considerations drive. Moral consistency (acting ethically all the time) helps build a person’s reputation proactively, while moral compensation (acting ethically to “make up” for earlier transgressions) represents a reactive approach to reputation building. Joosten et al. (2014) demonstrate that both approaches appear in the presence of accountability, as a path to maintain or repair one’s reputation. Welsh et al. (2015) expands on this idea by bringing in a time element, finding that while unethical behavior grows in magnitude over time, a prevention focus mitigates this progression. Since professional accountants rely on maintaining their reputations to succeed, threats to those reputations, from violating socially agreed-upon fences, will likely motivate how to act morally.

### Fences: Applicable Uses of Fences in Religious Settings

Religious communities provide us evidence of fences in action, which also apply in non-religious settings, as the following example illustrates:

A *gezeirah* is a law instituted by the rabbis to prevent people from accidentally violating a Torah *mitzvah*. We commonly speak of a *gezeirah* as a “fence” around the Torah. For example, the Torah commands us not to work on *Shabbat*, but a *gezeirah* commands us not to even handle an implement that you would use to perform prohibited work (such as a pencil, money, a hammer), because someone holding the implement might forget that it was *Shabbat* and perform prohibited work (Rich 2011).

Another example of a fence is the Jewish tradition of *equating fowl meat with mammal meat* when applying dietary laws. Since the Torah teaches that it is unethical (uncaring) to cook the meat of an animal in its mother’s milk, Jews may not eat milk with meat. Most Jews view chicken as a meat, although modern science has never found a chicken that produced milk.<sup>6</sup> Defining chicken as a

<sup>6</sup> Many Jews interpret the purpose of the restrictive dietary laws (Kashrut) as reminders of how to live life. The point of the meat/milk prohibition is to remind us not to mix improperly the harshness of eating meat with the kindness of drinking milk—as well as to care for animals and treat them with respect. Designating chicken as meat occurred at a time when meat was expensive and rare, so families ate chicken instead. Had chicken not been “reclassified,” there would be no “reminders” of the meat/milk prohibition, and people may have forgotten the original purposes of the fence—to remind us to separate harshness and kindness, and to treat animals with respect.

meat exemplifies a fence. If people start to eat chicken with milk products, they could forget the law against eating meat cooked in its mothers' milk. The chicken fence reduces the chance of that happening.

Fences appear both in the home and at work. In Judaism, Hebrew treasury officials entering the Holy Temple had to enter barefoot and wear clothes with no pockets, cuffs, hemmed parts, or wide sleeves, to prevent them from stealing or hiding any coins belonging to the public (The Mishna Shkalim Chapter 3 law 2). We still see this fence used in casino counting rooms, where best practices forbid employees from wearing clothing with pockets (DeFranco and Worhnan 1997). Similarly, Christian bakers had long given their customers 13 loaves of bread for the price of 12 (a baker's dozen), in order to guard against shortchanging them. In essence, the extra loaf of bread became a fence to prevent one from shortchanging a customer.

While breaking a fence does not violate a law or necessitate any formal criminal punishment, those who respect and understand the idea of fences often treat fences as laws. Fences diminish improper actions by minimizing the chance of facing a compromising position (e.g., being left alone with a client's cash). Haidt and Graham (2009, p. 12) note that over time, a "weakening of social constraints upon individuals, and the empowering of individuals to make their own choices" has occurred. They suggest this movement weakens social ties and threatens humans' interdependence. Fences can help to counter this trend, by placing clear, justified expectations on all members of the group. Backed by the community and legitimized by community leaders, fences are strong social controls.

While fences are strict and non-negotiable, to be effective and sustainable, they must arise from a justifiable base. Norman (2011, p. 43) provides a cohesive and persuasive argument for using the "framework of regulation" to explore beyond-compliance obligations. Rather than arbitrarily creating rules or blindly reacting to business failures by hastily creating regulations, we should consider first how the unethical action may harm existing structures or stakeholders (in Norman's example, how unethical acts harm the marketplace). We should then consider whether the proposed rule would prevent this harm, and whether it would cause other unintended negative effects. This approach suggests caution when developing fences.

We can trace some existing fences to their core values. The Jewish fence restricting eating milk with meat rests on the underlying virtue of care for others (namely, animals). Fences restricting men from being alone with unrelated women arises from the goal of protecting women, who are (in general) physically weaker and smaller than are men—the underlying virtue is care for the physically weaker. The baker's dozen fence rests on ensuring fair trade. Basing fences on underlying ethical values enhances our ability to

"voice our values" in situations when others pressure us to act unethically (Gentile 2010). It becomes easier to stand on the right side of the fence, when the fence has a transparent and direct link to an ethical virtue.

Many people look to traditions to guide their behavior. Applying Biblical, Maimonides, Aquinas, Shakespeare, and other insights, Schimmel (1997) shows that both religious and non-religious people know that developing their moral philosophy could help to control their passions and resist evil temptations. Gibbs (2014) applies Kohlberg (1981), Haidt and Graham (2009), and other moral development thinkers' ideas to show that true moral development requires all people to ascend through its various stages, e.g., going from obedience and punishment to eventually developing internal moral compasses to "do the right thing," regardless of rewards and punishment. Shapiro and Naughton (2013) find that managers acting for corporate benefits usually follow their main profit maximization goal, giving short shrift to care for employees, the economy, or the general long-term good.<sup>7</sup>

Thus, fences could combat that singular profit focus by prescribing how individuals should act both with each other, and in their social (and business) roles. Woods and Lamond (2011), the *zheng ming* concept relates to behaving according to long-standing ethical standards for particular roles. They also note that, especially in the Chinese culture, individuals look to their predecessors for advice and examples of correct behavior, making long-standing fences an effective method for self-regulation. Companies promoting the employee and the common good, and implementing the humanizing of requirements and codes of ethical conduct to achieve fair, sustainable, and transparent business objectives "yield beneficial social outcomes." Over time, fences can help create a context where decision makers reach higher levels of morality.

### Fences Fit Accountants

Fences are appropriate controls for professional accountants, based on their moral development and dominant personality characteristics. Using the defining issues test (DIT), which sums the score of post-conventional stages (Stages 5 and 6) to derive a P score ranging from 0 to 95, accounting students register significantly lower P scores than do non-accounting majors (St. Pierre et al. 1990; Rogers and Smith 2001), and CPAs register significantly lower than all students (Armstrong 1987; Lampe and Finn 1992; Bealing et al. 2006; Abdolmohammadi et al. 2009). Stage 4 in Kohlberg's moral development scale is "Law

<sup>7</sup> To help alleviate this problem, Shapiro (2015) suggests that narratives can help operationalize, explain, and justify their humanizing principles.

and duty to the social order: Everyone in society is obligated and protected by the law. You cooperate with society in general.” “At the conventional level, morality is a function of accordance with the views of society, its laws and conventions...” (Woods and Lamond 2011, p. 672). Fences should form a particularly effective control over professional accountants, who are generally rule-followers. Because fences apply to all members of the profession equally, they also should appeal to accountants’ desires for fairness and justice. While professional accountants who commit fraud can lose their licenses, they can also lose their credibility if they jump a fence—as a tarnished reputation often has disastrous consequences. The fear of alienation from violating a fence pressures community members to abide by them.

Fences, as non-negotiable restrictions, could also counterbalance professional judgment. The AICPA has recently placed increasing emphasis on accountants’ professional judgment, establishing ethical frameworks, rather than bright-line rules (Leibowitz and Reinstein 2009; Rigos 2015). The increasing reliance on professional judgment, especially for young professionals, heightens the chance that professional accountants will rationalize and engage in unethical behavior. Fences provide limits that may reduce exposure to these gray areas, as well as help students practice developing their own proper, ethical frameworks, which should include understanding the importance of fences.

Curd and May (1984) point out that professionals often tend to feel and be held responsible for their fellow professionals, which could cause them to overlook their colleagues’ shortcomings, causing severe problems. They claim that the crashing of some large passenger jetliners occurred largely because members of the McDonnell Douglas production team ignored or did not follow up on potential errors in the manufacturing process. A similar problem occurred when head football coach Joe Paterno failed to persist in his reports to the appropriate Penn State and legal authorities that Jerry Sandusky had reportedly engaged in inappropriate sexual conduct. Fences, as strict social controls, may help to prevent professionals from falling victim to the tendency to, intentionally or unintentionally, cover for their colleagues.

Accountants have dominant STJ personalities, which favor their using fences. Their “sensing” nature responds to specifics. Fences are specific and non-negotiable: e.g., do not own stock in an audit client. When based on solid ethical virtues, (consistent with accountants’ personal underlying ethical values),<sup>8</sup> fences satisfy their natural

<sup>8</sup> Our discussion and recommendations are directed (and limited) to the aforementioned “accidental fraudsters,” who face situations where they either do not recognize, or cannot resist, pressure or incentives to act unethically.

inclination (as thinkers) to reason through them logically. As judges, accountants make committed decisions and do not change their minds easily. Fences are clearly stated norms. When based on underlying professional values, they should not change over time.

Further, individuals often do not recognize ethical dilemmas. Murphy and Dacin (2011) include this lack of awareness as the third psychological pathway to fraud. Fences, as non-negotiable rules designed to keep people from the slippery slope, should also protect those who are unaware. For example, former Enron CFO Andrew Fastow stated that he never thought that he was committing a crime at the time, because attorneys, accountants, and other executives were all aware of the special purpose entities (SPE) that served as vehicles for fraud. While Enron had a fence to prevent it from getting to the point of setting up the SPEs, “...its board voted twice to suspend its code of ethics to allow the setting up of the partnerships that led to its demise.” (Tipgos 2002). These fences remaining in place would likely have diminished the likelihood of Fastow or the others to be in positions to create and perpetuate the SPEs.

### Professional Accountants’ Response to Fraud

Given professional accountants’ positions as guardians of corporate assets and financial reports, they have unique opportunities to commit fraud. Based on ACFE (2014) global fraud survey data, accountants commit both asset misappropriation<sup>9</sup> and financial statement fraud (FSF).<sup>10</sup> Additionally, because of their expertise and positions as controllers, CFOs, and auditors, they may find themselves in positions where upper management pressures them to commit fraud (see Feng et al. 2011), or asks (or expects) them to look the other way.

In response to occupational fraud risk, the profession promulgated codes of conduct, and required continuing professional education in ethics—also forming a key post to strengthen moral conduct. The Institute of Management Accountants [IMA], American Institute of CPAs [AICPA], and Institute of Internal Auditors [IIA] (voluntary organizations) require their members to follow these codes, and individual state CPA boards have adopted or adapted the

<sup>9</sup> They are responsible for 31.3 % of billing fraud, 35.7 % of check tampering, and the greatest percentages of payroll and skimming fraud, when compared with other departments (including executives and owners).

<sup>10</sup> While executives/owners commit the greatest percentage of FSF, of the fraud committed by accounting department employees, 8.3% is FSF. These frauds are costly, having the highest median loss per incident (\$1M in 2014 and 2012) compared with asset misappropriation \$130 K in 2014 and \$120 K in 2012) (ACFE 2014).

AICPA Code of Professional Conduct (CPC) for licensing and regulating professional accountants. Ferrell et al. (1998) note that businesses also overwhelmingly have implemented workplace codes of conduct [CoC] in response to regulation (Sarbanes–Oxley Act of 2002 requires all publicly traded firms to have CoC (or explain why they do not)), and to minimize risk (i.e., companies with effective compliance programs are eligible for reductions under the Federal Sentencing Guidelines).

Despite the ubiquity of CoC, evidence on their effectiveness is mixed, with about half of studies finding support and half finding no support.<sup>11</sup> Research finds much evidence to suggest that business professionals working at firms with ethical CoC are significantly less accepting of ethically questionable behavior toward most stakeholders (Tenbrunsel et al. 2003; McKinney et al. 2010). But Neill et al. (2005) criticize current voluntary CoCs, and singles out the AICPA Code of Professional Conduct (CPC) as ineffective, for focusing on inputs, rather than outputs, and for lacking (1) third-party attestation on compliance and (2) public reporting at the firm level. The CPC's self-regulating aspect, combined with general statements guiding professionals' conduct and behavior, appears to leave too much control in the hands of accountants themselves, and not enough in the public's, whose interest they are responsible for protecting.

### Fences in the Profession

Despite the general nature of most professional CoC, the CPC has long included what we call fences. In 1980, due to U.S. Department of Justice pressure, the AICPA lifted its restriction on CPAs advertising, although some professionals resisted (Wood and Sylvestre 1985). This fence (which was challenged for many years), rested on the underlying concept of a profession, whose members' allegiance to provide a reputable service for society exceeded the mundane goal of earning a living. Society trusted and relied on professional accountants, not because they were shrewd businesspeople, but because they were members of a learned and trustworthy profession. Whether the professionals themselves supported the elimination of advertising, its demise led the culture to shift, making advertising by professional accountants acceptable and even expected. The profession responded to removing the advertising ban by changing their focus from primarily providing a public service to growing a for profit business. A fence that had maintained accounting's professionalism dissipated and CPA firms began to look and act more like their corporate clients, competing with each other and vying for market

share. In some professionals' eyes, accounting then changed from a profession to an industry (Zeff 2003).

Despite losing the advertising fence, other fences still exist within the profession. In auditing, perhaps the best known is the AICPA CPC ET Section 101—Independence, requiring auditors to be independent in appearance and in fact—representing a fence to prevent real or apparent conflicts of interest between external auditors and their audit clients. The underlying ethical virtue of this fence is fairness. Accountants' financial interest in their clients would likely impair their professional judgments, pressuring them to place the public's interests above their own. The independence fence keeps accountants from facing that pressure. The professional accounting community strongly supports this fence. Recently, a large CPA firm found that a partner had violated independence rules by having an improper relationship with a client. Punishment was swift and harsh: the firm terminated the partner immediately (Katz 2014).<sup>12</sup>

In managerial accounting, segregation of duties (SoD) describes fences between authorization, recording, and custody, which reduce the opportunity for accountants to steal (misappropriate assets) and subsequently conceal their theft. A review of embezzlement cases over the past three years (see <http://www.fraudtalk.blogspot.com/>) shows the damage resulting when accountants and others cross the suggested SoD fences. While SoD is a best practice, taught in accounting programs and evaluated in internal controls assessments, in our opinion, because it is often missing in practice, it has not achieved "fence" status. We recommend that professional accountants explore making the SoD recommendations a fence.

A relatively new challenge to accountants worldwide (although not yet significant in the U.S.) is the rise of principles-based International Financial Reporting Standards (IFRS), superseding rules-based Generally Accepted Accounting Principles. Research finds that IFRS standards are more challenging to enforce and lead to lower accounting quality (Nelson 2002). Further, the stronger the enforcement effort, the more accounting quality suffers (Ahmed et al. 2013). These findings suggest that with respect to accounting judgments and decisions, a rules-based approach may be more effective.

Another professional accounting fence prohibits contingency fees for most tax services. While tax accountants take an advocacy position, the public still entrusts them to act ethically. A contingency fee could pressure accountants to take inappropriate tax valuation positions or even violate tax laws, in order to earn more money. For example, Big Four Firm KPMG sold abusive tax shelters to 350 people,

<sup>11</sup> For a listing of research and findings in this area, see Schwartz (2001).

<sup>12</sup> This action may have been self-serving, allowing the partnership to avoid legal action from the affected client.

which generated them \$124 million in fees but cost the Treasury \$1.4 billion in unpaid taxes. KPMG eventually acknowledged “full responsibility for unlawful conduct by former partners during that period” and agreed to pay \$456 million in fines, restitution, and penalties as part of an agreement to defer prosecution (Yang et al. 2006, p. 40). Effective fences remove accountants from finding themselves in positions where clients may pressure them, or where they may respond to incentives of large fees, as the fence eliminates the link between the accountant’s fee and the technical decisions made when preparing the return.

## Recommendations

Professional accountants continue to commit unethical acts despite government and industry regulations, existing professional and corporate codes of conduct, and the few fences currently in place. Based on accountants’ personal dispositions, we recommend the adoption of additional fences, and present specific suggestions for business ethics educators and for the profession. We note that the AICPA has begun this process, by providing “a long list of ‘safeguards’ to partially or completely eliminate a conflicting ethical threat sufficient to diminish or mitigate the potential significance thereof (see Code Section 1.00.010.17)” (Rigos 2015, p. 65). This is an encouraging step forward by the profession.

We recommend that educators get involved as well. Instructors should introduce the concept of fences early in the accounting curriculum, building on the concept as students move through their topical courses—i.e., identify ethical dilemmas and possible decision paths (Dzurinin et al. 2013). In principles of accounting courses, faculty may ask students to identify fences from practice, their religions, or other experiences. Later on, in the accounting information systems or audit courses, or when beginning a discussion of internal control, faculty can provide students with ethical dilemmas, and ask them to create a fence that would have prevented the individual from facing the dilemma, or helped accountants voice their underlying values. Fences cannot address all ethical dilemmas, but we believe students will benefit from understanding why they exist and how they function.

Professional accounting organizations should incorporate fences into their CoC. Besides including general principles of ethical behavior, similar to Google’s “Don’t be Evil,” professionals could develop further specific, non-negotiable rules (i.e., fences) to keep PAs from finding themselves in positions to do wrong. In supporting his call for anti-fraud policies as necessary controls, Goldmann (2010, p. 5) denotes differences between ethics and compliance:

...despite the widely assumed synonymous meanings of “ethics” and “compliance,” there are important

differences. According to the (Compliance and Ethics) Manual, “Ethics at the core is a philosophy of values, integrity and courage. What an individual chooses to do, defines his or her ethics.” “Compliance,” by comparison, is “...the requirement and act of conforming to a guideline or policy, regulation or law. It is a directive to follow and conform to a set of clearly defined rules.”

While maintaining that CPC are beneficial, we recommend including fences within them. Schwartz (2001) provides eight metaphors for how codes of conduct work to modify behavior. Four of these match the concept of fences (rulebook, shield, smoke detector, and club). Rulebook codes prescribe parameters of what is, and like fences, what is not, appropriate. Individuals can check the code when faced with an ethical dilemma, and a rulebook code will let them know if a particular action is forbidden. Shield codes act as a protection, providing support and backup for an action that the individual knows is correct. This concept dovetails with Gentile’s (2010) belief in the effectiveness of reframing rationalizations, which occurs when an individual rationalizes doing the right thing (aligned with underlying virtues), rather than rationalizing wrongdoing.

When fences rest on underlying virtues, they enable this rationalization reframing. Smoke detector codes warn individuals when they get close to crossing the line. Fences that represent the group’s behavioral expectations act as smoke detectors—reminding individuals of their underlying obligations as members of a profession when others catch them crossing a fence. Such early detection systems prevent fraud before it occurs. Similar to smoke detectors, club codes are used as threats to those who consider violating them. The threat of potential discipline leads to modified behavior (Schwartz 2001, p. 256). Group regulations enforce fences; people adhere to them out of fear of ostracization.

Section 45 of the Auditing Profession Act in South Africa exemplifies these concepts. This Section requires auditors to “bring ‘reportable irregularities’ to the attention of the Independent Regulatory Board for Auditors (IRBA)” (Maroun and Atkins 2014, p. 252). Their qualitative investigation of this rule describes how the rule acts both as a safeguard and as a shield. It protects auditors from having to make difficult decisions about whether to report these items by making it a non-negotiable rule; this shield also protects auditors from repercussions from disgruntled clients and damaged stakeholders.

## Building New Fences

We have provided examples of existing professional accounting fences. We now present possible new fences that PAs should consider implementing in four areas: audit, tax, managerial, and professional practice management.



The Public Company Accounting Oversight Board (2013) has discussed requiring audit partners to publish their names in public company audit reports. This approach may be a useful fence, as it ties the auditor to the underlying professional value of personal responsibility and accountability. Printing your name in publicly available documents puts “your name on the line” which means you assume personal responsibility for the work. This action carries great weight, as individuals rely on the audit report when they make important financial decisions. This fence reminds auditors of the importance of the audit report, and of their personal accountability for its integrity. The Sarbanes–Oxley Act of 2002 requires CEOs and CFOs to sign their names to the financial statements and disclosures. Applying a similar fence to auditors seems reasonable.

Another recommended fence relates to tax strategies. While tax accountants are client advocates, they are still required to act within the law. Shrewd tax accountants had developed convoluted approaches to help clients avoid taxes; later, the federal government ruled many of these schemes illegal (Johnston 2003). One aspect that allowed these schemes to proliferate was the secrecy in which the firms cloaked them. An effective fence would be publishing such schemes, with individual accountants personally taking credit for them. While some may be concerned that these are proprietary assets, copyright laws allow legal protection for these methods, thus providing protection (and compensation for) their use by others. This fence, like the one above, rests on personal responsibility and accountability.

As noted earlier, accountants violating segregation of duties (SoD) enables much fraud, and we believe this practice should evolve into a fence. Even when management asks, a professional accountant should refuse to violate SoD. Over time, as more PAs commit to this fence, fewer of them will find themselves in positions where temptation overwhelms them.

Practice management constitutes another area where fences might be beneficial. Large PA firms have grown greatly in size, driven by such factors as economies of scale, complexity in accounting, and the need to serve large, multinational clients. While size may lead to efficiency, it also impairs professionals' ability to monitor their employees and peers.

For example, Grove and Cook (2004) show that auditors failed to detect many high-profile frauds by missing such quantitative “red flags” as ignoring Enron's cash flow problems, tax accruals, and overall earnings quality, and such qualitative “red flags” as not fully understanding Enron's methods of recognizing income, related party transactions, and inadequate disclosures. In addition, the U.S. Senate (2002) noted that lack of independence, excess compensation, and inappropriate conflicts of interest were the prime drivers of the Enron debacle. The restriction on

non-audit services, a practice management fence, sought to keep future auditors from finding themselves in a position where they have to choose between earning professional fees of \$100 million annually, as was the case at Enron (Herrick and Barrionuevo 2002), or overlooking a client's fraudulent financial reporting. Practice-related fences, such as limiting practice size and client dependence, represent possibilities to investigate.

## Conclusion

The current business environment places undue pressure on accountants, whom the public and other stakeholders entrust to safeguard assets and report financial results. Too often, fraud prevention focuses on recognizing pressures and removing opportunities. We believe that the profession ignores rationalization, and its key role in enabling fraud. Rationalization allows students—and as they move forward in their careers, accountants—to downplay personal responsibility for their actions.

While not expecting fences to influence accountants' ethical development directly, we propose that fences can serve useful purposes, by bridging the gap between principles and rules-based standards, as long as those standards focus on underlying principles (Gentile 2010). They humanize underlying virtues. Fences prohibit actions, making the underlying values more salient to individuals—fences guide human behavior to align it with the underlying values.

We also recognize that ethical development takes time, during which fences can provide support and protection. First, fences indirectly support moral development by allowing individuals to practice “doing good,” which should lead to higher moral development. As Grassl (2014) notes, “Aristotle views virtue as a habit that can be developed through practice. But having a virtue differs from having a skill (e.g., woodworking or violin playing) as what counts is both the external product and the fixed intention that led to the action and the habit that originated it.” Fences based on underlying virtues provide this support.

Second, fences provide protection. They prevent accountants from finding themselves in a position where they may feel pressured to commit fraud. As discussed, individuals rarely set out to intentionally commit fraud (i.e., most are first time offenders). More likely, they find themselves in a new situation where they face intense pressure or irresistible incentives. If they have insufficient time to develop their ethical decision-making skills through practice, as Haidt and Graham (2009) recommend, they may make a quick (and often wrong) decision. While these initial decisions are not necessarily fraudulent, they are the gateway to more aggressive decisions. Fraud often begins small and becomes larger over time, making it difficult to recognize

(Gino and Bazerman 2009). In the WorldCom fraud, three lower level accountants were aware they had done wrong, yet once they took the first unethical step, they continued on to participate in a far-reaching, multi-billion dollar fraud (Cooper 2008). Fences provide an effective, economical control designed to prevent costly misjudgments.

Last, fences remind us of underlying professional values that the accounting community endorses. Fences with clear, logical links to these underlying values help accountants voice their values and resist the pressure to rationalize. Reframing the ethical dilemma as an opportunity to enact one's values will empower professionals to voice those values (Gentile 2010). Like training wheels on a bike, fences allow accountants to practice and develop their ethical skills without drastic failures.

We recognize that there may be significant pushback from professionals regarding fences, which do not require, nor allow for professional judgment. Enclosing controls (i.e., fences) may cause professionals to focus on compliance, rather than on producing the best audit (Maroun and Atkins 2014; McMillan 2004). However, we argue that fences are useful in certain circumstances (i.e., when professionals are still developing, when PAs are in a high-pressure situation, and when PAs' moral development rests at a conventional level).

Fences provide clear, non-negotiable expectations that are a good fit for accountants' conventional level of moral development and their STJ personalities—and protect individuals from being in positions that impair their recognition of ethical dilemmas, or pressure them to violate ethical edicts. Ethics educators should introduce the concept of fences, as the profession implements more fences to reinforce their codes of conduct, to reduce rationalization and keep PAs from the slippery slope of unethical behavior and fraud.

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