

Professional Malpractice

Webster's New Collegiate Dictionary (1977) defined malpractice as, "1: A dereliction of professional duty or a failure to exercise an accepted degree of professional skill or learning by one (as a physician) rendering professional services which results in injury, loss, or damage;" and "2: an injurious, negligent, or improper practice." Medical malpractice tends to come to mind at first thought of the term "malpractice". As recent history has proven; however, any professional service provider can be culpable of malpractice. Highly publicized companies have been found to be crossing ethical boundaries into malpractice. "Business ethics is a subset of ethics: there is no special set of ethical principles that applies only to the world of business. . . . Ethics can be broadly defined as the study of what is right or good for human beings. It pursues the questions of what people ought to do, what goals they should pursue." (Mann and Roberts, 2000).

The Enron and WorldCom scandals have brought forth an increased public awareness of corporate and accounting malpractice. Citigroup, Inc. and Household International, Inc. are under fire for their lending practices (Mollenkamp and Beckett, 2002). Investors, consumers, and the general public are questioning what role auditors and government regulators are playing, as their interference does not seem to be beneficial. Not to mention the auditors themselves are guilty of malpractice, as is the case with Arthur Andersen LLP.

According to Sandberg and Solomon (2002), WorldCom's announcement that it engaged in a massive \$9 billion accounting fraud has caused it to become the largest case of corporate misrepresentation in United States corporate history. However, on the tails

of this an “October 2002 United States General Accounting Office study indicated that from 1997 through its report date in 2002, almost ten percent of all publicly traded companies had restated their earnings” (Cheffers, Renda and Bourassa, ch. 1). Enron was losing billions of dollars; yet, their financial statements reported record profits. Arthur Andersen’s failure to state the earnings properly and the criminal act of destroying documents cost them the United States arm of the International Corporation in addition to a substantial amount of money and their reputation. All of these are grievous instances of professional malpractice.

Citigroup, Inc. agreed in September, 2002 to pay \$215 million in a answer to charges of deceptive marketing and lending practices brought forth by the Federal Trade Commission (Mollenkamp & Beckett, 2002). Household International, Inc. has acknowledged it had mistakenly misled borrowers, but insists those accounts only make up minute portion of the loans it makes annually. Consequently, the Corporation is currently facing suits in multiple states (Schoen).

How are these flagrant acts of misconduct to be assuaged? Schoen reported that according to Keith O’Connor, vice president of government affairs at the Mortgage Bankers Association, increased regulations are not the answer; however, better enforcement of existing laws is really what is required. The American Institute of Certified Public Accountants (AICPA) has disagreed, at least from an auditing standpoint, indicating both are essential. Both new regulations and stricter enforcement are surfacing in auditing standards. Already in place are new accounting standards shifting the responsibility in fraud discovery.

The AICPA has implemented *Statement on Auditing Standards (SAS) 99: consideration of Fraud in a Financial Statement Audit*, replacing SAS 82, giving auditors expanded guidelines for detecting fraud. In addition, the AICPA has created a Competency Self-Assessment Tool (CAT) to aid future CPAs and financial professionals in determining competencies. This tool can be found at <http://www.cpa2biz.com/cpeconferences/cat.htm>. Furthermore, according to www.accountingmalpractice.com the AICPA has presented stringent guidelines for an audit engagement team to follow. “Integrity in financial statement reporting is one of the linchpins of an efficiently operating business environment. Without a belief in the validity of business claims, stakeholders would have to spend an inordinate amount of time verifying information” (AccountingMalpractice.com, 2002).

Integrity in all professions, not just in financial reporting, is crucial for all aspects of the business. Malpractice does not relate only to the medical profession. Ultimately, implementation of new laws and regulations, and increased enforcement will heighten awareness and diminish certain corporate and accounting malpractice.

References

Cheffers, M.L., CPA, ABV, Renda, C.M., Esq., and Bourassa, J.R. (n.d.). Loss prevention primer. Retrieved November 16, 2002, from <http://www.accountingmalpractice.com/0002/primer.php?c=ch-01>.

“Malpractice,” Webster’s new Collegiate Dictionary, 1977.

Mann, R.A., & Roberts, B.S. (2000). Smith & Roberson’s Business Law (11th ed.). Cincinnati: West Legal Studies in Business.

Mollenkamp, C., & Beckett, P. (2002, October 4). Household International, Inc. may be near large settlement. The Wall Street Journal, p. A6.

Sandberg, J., & Solomon, D. (2002, November 11). H-P’s Capellas leads list to be CEO of WorldCom. The Wall Street Journal, pp. A3, A9.

SAS 99 and your duty to detect fraud: How quickly do you need to respond? (2002). Retrieved November 16, 2002, from <http://www.accountingmalpractice.com/0005/articles/ga-200210a.pdf>.

Schoen, J.W. (n.d.). Regulators on the prowl for predatory lenders. Retrieved November 16, 2002, from <http://www.msnbc.com/news/805701.asp>.