



The SEC as Spiritual Apparatus

Insider trading rules help us spiritually--by letting people pursue self-interest without being corrupted by it.

By Robert Rabinowitz

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Enronomics 101: The Enron Business Model. First, take a sound business. Then tie top executives' remuneration to unsustainable levels of profit and growth. Next, exploit all possible conflicts of interest to ensure that nobody blows the whistle on the tricks used to maintain the appearance of success. Offer auditors consulting contracts to make them more compliant. Distribute corporate largesse to politicians in return for relaxed regulation. Offer sweet private deals to the bankers who underwrite your share offerings and advise clients on investment strategies. And so the list goes on.

Conflicts of interest are part and parcel of every financial scandal because of the central role that our economic system assigns to the pursuit of self-interest. A truism of economics is that the best way in which one can serve the common good is through dogged pursuit of one's own self-interest. This idea was beautifully summarized by Adam Smith (1723-1790) who observed that "[i]t is not from benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest...[Man is] led by an invisible hand to promote an end which was no part his intention."

The problem arises, as we are beginning to see in the Enron case, when the pursuit of self-interest gets out of control, when people take undue advantage of each other beyond the limits prescribed by society as acceptable. Within the boundaries of what is acceptable, to pursue one's self-interest is called striking a deal. Beyond those boundaries, the pursuit of self-interest harms others in an illegitimate way. It also undermines the long-term health of markets as people become more cautious about being cheated out of their capital by unscrupulous speculators and crooks.

But there is also a spiritual dimension to this conflict of interests. From a spiritual perspective, the opposite of Smith's conception of economic motivation is actually true. One cannot attain life's true joys through pursuit of self-interest but only through service to others. True joy comes to a person who can quiet the constant clamoring of the acquisitive drive within her – in Judaism the *yetzer* – for more "stuff." The stuff that the *yetzer* seeks – more power, more money and higher social status – does not actually bring the fulfillment for which the rational agent of economic theory yearns. This does not mean that money, power and status are of necessity spiritually detrimental, although, in light of their power to corrupt, they certainly need to be handled with care. As Jacob Needleman succinctly explains, "Personal gain is not excluded from a spiritual life. On the contrary. But the aim of personal gain is clearly defined: one gains something in order to give. This is the essence not only of human life, but of existence itself" (*Money and the Meaning of Life*).

Traditionally, many Jewish thinkers have acknowledged that self-centered concerns about our own material well-being are in conflict with our deeper spiritual goals. Nevertheless, they have recognized that such concerns are thoroughly proper and deserving of respect. Recognizing that what is locked out by the door can often fly in through the window, the rabbis recommend accommodating the *yetzer's* urges in a way that minimizes the harm they can cause and maximizes their personal and social benefit. This perspective is best exemplified in the oft-cited rabbinic statement that "were it not for the *yetzer hara* (the evil urge), a man would not build a house, take a wife, beget children, or engage in commerce" (Midrash Genesis Rabbah 9:7). A successful life, from this perspective, is the result of constant, ongoing, disciplined vigilance to ensure that the material and social goods necessary for a life of dignity do not become ends in themselves, that the *yetzer* does not distract us from life's true goods.

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In this light, institutions such as the Securities and Exchanges Commission or the Public

Oversight Board and rules against insider trading do not simply protect society at large from economic conflicts of interest. We might also think of them as part of society's spiritual apparatus that ensures that individuals can direct their *yetzer* effectively in the pursuit of self-interest without being corrupted by it. They can also serve to protect business people from excessive pursuit of self-interest at the expense of their own spiritual good. From this perspective, the list of people hurt by the Enron scandal goes beyond Enron's employees, shareholders and creditors to include the executives at Enron and Andersen who caused the scandal. While they profited greatly in material terms (even if many of them are bound to lose their wealth as the inquiry continues), that wealth was almost surely gained at the expense of their true spiritual well-being. As Jesus put it, "[w]hat profiteth a man if he gain the world and lose his soul?" (Mark 8:36).

What would it look like if financial regulations and our major institutions were designed to serve our spiritual as well as material welfare? Spiritual concerns rarely if ever have a place in the contemporary discussion of economic issues, perhaps because religious concerns are perceived as at best irrelevant to economic and financial policy or because of a justified fear of the intrusion of religion into civic life. And yet, it seems to me that this is an area in which religious traditions could make a significant contribution to the public policy debate, without compromising basic freedoms or harming the basis of our common prosperity.

The rabbis, heeding the admonition of the biblical prophets, interpreted the Torah's injunction not to "put a stumbling block before the blind" (Leviticus 19:14) in metaphorical as well as literal terms. One should not knowingly place people in situations, the rabbis declared, in which they are tempted to compromise their moral and spiritual integrity. Though integrity is in essence a personal matter, each of us has a responsibility to protect our friends, colleagues, neighbors from unnecessary temptation. What then is society's responsibility not to put a stumbling block in front of the blind?

In the last two decades, there has been increasing emphasis on self-regulation in many financial areas. But, given everything we know about human nature, can we honestly expect people not to enrich themselves illicitly if they believe that there is little or no chance that they will be held publicly accountable? In drawing up legislation, shouldn't we also be taking into account the spiritual well-being of corporate employees? After all, our society has judged that their pursuit of self-interest serves the common good. But should we not seek to ensure that they do not serve the common good at the expense of their souls?

As the Enron scandal has developed and unfolded, it is clear that more and more people and institutions are implicated. It would seem that at least part of the remedy lies in removing current regulatory "stumbling blocks" that tempt people to put their material self-interest and their *yetzer* before the common good and their own spiritual well-being. Policy remedies would include greater transparency and public accountability, regulations forbidding financial institutions from engaging in businesses which lead to clear conflicts of interest, and rules safeguarding the impartiality of members of regulatory bodies. The Enron debacle not only necessitates action to restore confidence in markets and financial professions. It also creates an opportunity to create a healthier and more prosperous society by crafting economic policies that recognize and accommodate the inevitable tensions between material wealth and spiritual well-being.

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