



Ethical Considerations for Land Professionals

This webcast will begin promptly at 12:00 PM Eastern

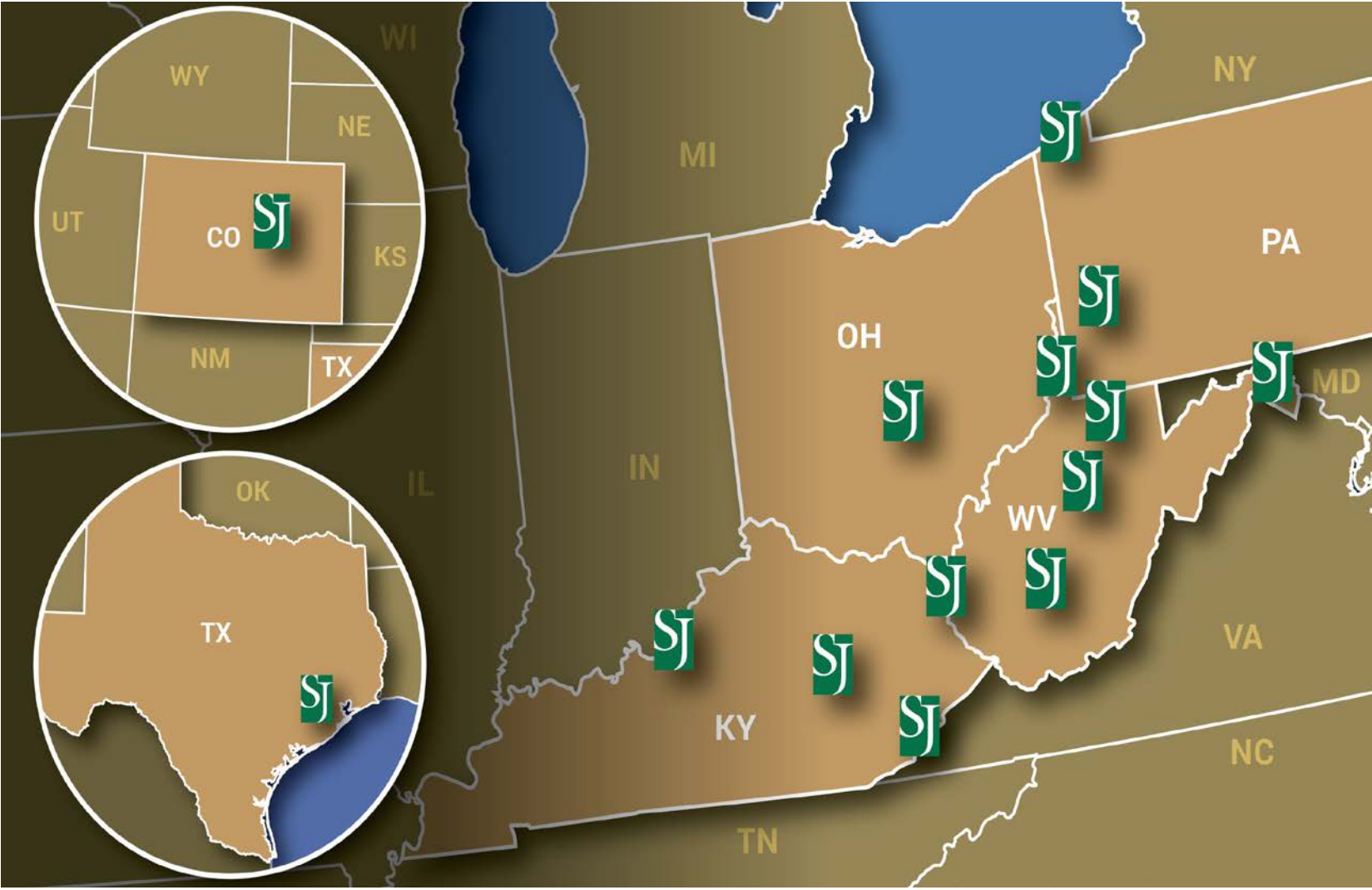
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Welcome



Today's Presenter



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Ethical Considerations

- The reasons why professional organizations impose ethical requirements on their members
- The specific ethical requirements land professionals are expected to maintain
- The consequences suffered by a land professional who runs afoul of the ethics code

A vertical image on the left side of the slide. The top portion shows an oil derrick on a grassy field under a blue sky. The bottom portion shows a close-up of a reddish-brown rock face with a black line, possibly a fracture or a wellbore.

Land Professionals Organizations

- American Association of Professional Landmen (AAPL)
 - First enacted ethics code in 1960
 - Incorporated into AAPL By-Laws in 1978
 - Ethics Committee formed in 1980 to review allegations of unethical conduct
- National Association of Division Order Analysts (NADOA)
 - First enacted Code of Ethics in 1988
- National Association of Lease and Title Analysts (NALTA)



WHY DO WE BOTHER WITH PROFESSIONAL ETHICS?



Ethics Promote Benefits

- Maintain personal integrity
- Develop (and increase) public trust
 - As public trust increases, it may be easier to establish trust-based relationships with public
- Consistent ethical practice helps silence questions about long-ago deals



Ethics Protect Against Risks

- Landowners and business partners can always question integrity
- Landmen have special knowledge about landwork
 - With special knowledge comes expectations that your conduct in that area must meet greater scrutiny

A vertical image on the left side of the slide. The top portion shows an oil derrick against a blue sky with light clouds. The bottom portion shows a close-up of a reddish-brown rock face with a black line, possibly a crack or a geological feature.

Sources of Ethical Guidance

- Individual conscience
- Professional ethics
 - Whether AAPL, NADOA, NALTA, or company-specific
- Common law and statutes
 - All contracts carry implied covenant of good faith and fair dealing
 - Fraudulent contracts can be set aside and fraudsters punished, civilly or criminally



Ethics v. Law

- Ethical conduct is not necessarily the same as legal conduct
 - Avoiding legal sanctions (civil or criminal) is the lowest bar to clear
 - Legal conduct = external limits
 - Ethical conduct = internal standards
- Measuring conduct by individual conscience may lead to inconsistent outcomes

A vertical image on the left side of the slide. The top portion shows an oil derrick on a grassy hill under a blue sky. The bottom portion shows a close-up of a reddish-brown rock face with a black line, possibly a crack or a geological feature.

The Utility of Ethics

- Following code of ethics gives you:
 - Greater credibility
 - Professional pride
 - Business advantages
 - Possible defenses




Why Do We Have a Code of Ethics?

- AAPL: “To inspire and maintain a high standard of professional conduct”
- NADOA: “To inspire and maintain a high standard of professional conduct”
- NALTA: “To promote, maintain and enforce high standards of professional conduct and fair and honest dealings on the part of each NALTA member within the industry”



NOW, LET'S REVIEW THE SPECIFIC ETHICS REQUIREMENTS

A vertical image on the left side of the slide. The top portion shows a black oil rig structure against a blue sky with light clouds. Below the rig is a green grassy field. The bottom portion of the image shows a close-up of a reddish-brown rock face with a black cable or pipe running diagonally across it.

Maintain Goodwill and Promote Fairness and Honesty

- AAPL, NADOA, and NALTA all impose duty at all times to promote and in a fair and honest manner represent the industry to the public at large to establish and maintain goodwill within the industry and with the public
 - AAPL: land professional has duty to protect members of public with whom he deals against fraud, misrepresentation and unethical practices

Maintain Public's Confidence and Respect

- Related to the duty to maintain goodwill and promote fairness and honesty
 - AAPL: eliminate any practices that could be damaging to the public or bring discredit to industry
 - NADDOA: conduct business relationship and communications in manner consistent with professionalism, fairness and honesty, so as to maintain the respect of energy industry, the public, and peers
 - NALTA: members shall avoid any act or conduct which causes disrespect for or a lack of confidence in NALTA or its members



A vertical image on the left side of the slide. The top portion shows a black oil derrick against a blue sky with light clouds. Below the derrick is a green grassy field. The bottom portion of the image shows a close-up of a reddish-brown rock face with a black cable or pipe running diagonally across it.

Follow Established Rules of Honesty and Courtesy

- AAPL: competition among those engaged in the energy industry shall be kept at high level with careful adherence to established rules of honesty and courtesy
 - Land professional has duty to protect public against fraud, misrepresentation and unethical practices
- NALTA: same as AAPL, but references “established rules of honesty, fairness and courtesy”
- NADOA: members shall maintain relationships with all persons engaged in energy industry “with consistent adherence to established practices of confidence and professionalism”



Good Faith Dealings With Others In Industry

- AAPL: shall act in good faith in dealings with industry associates
- NADOA: maintain relationships with all persons engaged in energy industry at high degree with consistent adherence to established practices of confidence and professionalism
- NALTA: in their professional dealings, members shall conduct themselves in manner consistent with fairness




Don't Use Confidential Information for Personal Gain

- AAPL: land professional shall not betray partner/employer/client trust by directly turning confidential information to personal gain
- NALTA: member shall not betray employer/client trust by directly turning confidential information into personal gain
- NADOA: member shall not betray employer/client/NADOA trust by converting or seeking for purpose of conversion any confidential or discretionary information available to member for personal gain for member or anyone

A vertical image on the left side of the slide. The top portion shows an oil drilling rig against a blue sky with light clouds. The bottom portion shows a close-up of a reddish-brown rock face with a black line, possibly a crack or a geological feature.

Duty of Loyalty and Avoiding Conflicts of Interest

- AAPL: land professional shall:
 - exercise utmost good faith and loyalty to employer/client and shall not act adversely or engage in any enterprise in conflict with employer/client interests
 - avoid business activity which may conflict with employer/client interest or result in unauthorized disclosure or misuse of confidential information



Duty of Loyalty and Avoiding Conflicts of Interest

- AAPL: land professional shall not:
 - accept compensation from more than one principal for providing same service nor accept compensation from one party to transaction without full knowledge of all principals or parties to transaction
 - accept commission, rebate, interest, ORR or other profit on transactions made for employer/client without employer/client's knowledge and consent

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Duty of Loyalty and Avoiding Conflicts of Interest

- AAPL: land professional shall not:
 - undertake to provide professional services concerning property or transaction where land professional has present or contemplated interest
 - Unless such interest is specifically disclosed to all affected parties
 - Acquire for self or others an interest in property which he is called upon to purchase for his principal/employer/client
 - Shall disclose interest in area which might be in conflict with principal/employer/client
 - In leasing property where land professional owns interest, he must reveal facts of ownership to potential buyer



Duty of Loyalty and Avoiding Conflicts of Interest

- NALTA: member shall exercise utmost good faith and loyalty to employer/client and shall not act adversely or engage in any enterprise in conflict with interest of employer/client
- NADOA: similar to NALTA
 - Uses “function or duty” instead of “enterprise”

Expertise

- AAPL: land professional shall represent others in his area of expertise and shall not represent himself to be skilled in professional areas in which he is not professional qualified
 - Such as law, geology, or engineering



Expertise

- AAPL: shall provide level of competent service in keeping with standards of practice in those fields in which land professional customarily engages
 - Shall be informed regarding laws, proposed legislation, government regulations, public policies, and current market conditions in area of represented expertise
- Shall not aid or abet unauthorized use of:
 - Certified Professional Landman
 - Registered Professional Landman
 - P. Land
 - CPL/ESA





Expertise

- NALTA: members shall represent to others their area of expertise and shall not represent themselves to be skilled in professional areas in which they are not qualified
- NADOA: member shall represent to others his area of expertise and shall not represent himself to be skilled in professional function or duty in which he is not professionally qualified, certified, or licensed to practice



Cooperate with Disciplinary Investigation/Proceedings

- AAPL and NALTA require that anyone charged with unethical conduct or asked to give evidence in an investigation or disciplinary proceeding must place all pertinent facts before the appropriate authority
 - AAPL: “the proper authority of the [AAPL]”
 - NALTA: the chair of NALTA Ethics Committee
- NADOA: no similar provision



Criminal Activity

- AAPL, NADOA, and NALTA all require:
 - Land professional shall not participate in conduct which causes him to be convicted, adjudged or otherwise recorded as guilty by any competent court of:
 - any felony
 - any offense involving fraud as essential element
 - any other serious crime

Advertising

- AAPL: the land professional shall at all times present an accurate representation in advertising and disclosures to the public
- NADOA: no similar provision
- NALTA: no similar provision
 - Members of NADOA and NALTA are less likely to be independent businesspeople than AAPL members





Fiduciary Responsibility

- AAPL: land professional shall assure monies coming into his possession in trust for other persons, such as escrows, advances for expenses, fee advances and other like items, are properly accounted for and administered in a manner approved by employer/client
- NADOA and NALTA: no similar provision



Non-discrimination

- AAPL: land professional shall not deny equal professional services to any person for reasons of race, creed, sex or country of national origin
 - Land professional shall not be party to any plan or agreement to discriminate against person or persons on basis of race, creed, sex or country of national origin
- NADOA and NALTA: no similar provision



Personal Qualities

- NADOA's Preamble states:
 - “Among a member’s personal qualities shall be courtesy, friendliness, knowledge of human nature, sound principles, understanding of values and business practices predicated on the basic practices of honesty and integrity. The member’s range of contacts requires an understanding of human nature and behavior and the ability to apply himself patiently and conscientiously to the task at hand. The member’s interest in people is similar to his interest in work or activity and he shall avail himself of every opportunity to build confidence in the industry through his many contacts”
- AAPL and NALTA: no similar provision



SO, WHAT ARE THE CONSEQUENCES IF YOU DON'T FOLLOW THE ETHICS CODE?

Consequences

- AAPL: written allegation of misconduct submitted to Exec. VP at AAPL HQ
 - Allegation referred to Ethics Comm. Chair
 - Allegation will be investigated by Ethics Comm. (or appointed investigating comm.)
 - If investigation yields probable cause, formal complaint will be filed with Ethics Comm. and hearing scheduled
 - Complaint must set forth specific provisions in Ethics Code, Standards of Practice or By-laws allegedly broken
 - Time and place of hearing set by Ethics Comm. with 30-day written notice to accused



Consequences

- AAPL: at hearing, accused may:
 - Appear with counsel
 - Hear any witnesses called in support of charge
 - Cross-examine witnesses
 - Present own witnesses
 - Submit oral or written statements on own behalf
- Investigators may also appear and present and cross-examine witnesses
- Accused may also waive personal appearance at hearing and ask Ethics Comm. to adjudge matter based on written statement of defense
- If accused fails to appear (or fails to waive appearance), Ethics Comm. can still render judgment

Consequences

- AAPL: Ethics Comm. will then vote to sustain or dismiss charges
 - Ethics Comm. has 9 members
 - Must have at least 6 for hearing quorum
 - By 2/3 vote of those present, the Ethics Comm. may:
 - Dismiss complaint
 - Censure accused
 - Suspend accused's membership for stated period of time
 - Allow accused to resign
 - Expel accused
 - Revoke or suspend certification



Consequences

- AAPL: within reasonable time after hearing (but within 30 days), accused must be notified of decision
- Accused may appeal to Executive Committee
- If accused is suspended or has resigned, he may reapply for membership 3 years later; but those expelled cannot be reinstated



Consequences

- NALTA: any member may file grievance against another member for violating NALTA rules
 - Grievance submitted to NALTA President or Past-President in writing by mail
 - Transferred to Ethics Chair by email
 - Entire Ethics Comm. will hold private session
 - May recommend that Board dismiss grievance or recommend disciplinary action (resignation, suspension, or expulsion)
 - If Board decides against dismissing grievance, hearing must be scheduled



Consequences

- NALTA: hearing process similar to AAPL
 - Must be set within 45 days of Ethics Comm. recommendation
 - At least 2/3 of the Board make quorum for hearing
 - Defendant may make oral/written defense
 - May also waive personal appearance
 - Defendant may appeal within 30 days of decision
 - May be suspended or expelled or permitted to resign
 - Those expelled are not eligible for readmission



Consequences

- NADOA: similar to AAPL and NALTA
 - Once allegation of misconduct is submitted to President at NADOA HQ, allegation is referred to Ethics Chair who shall appoint investigating committee
 - If committee determines there is reasonable need for hearing, it shall prepare and file formal complaint within 90 days
 - Ethics Comm. will set hearing date; provide 30-days notice to accused
 - Hearing before at least 2/3 of Ethics Comm.
 - Both accused and investigating committee may present written and oral statements
 - Accused may waive personal appearance



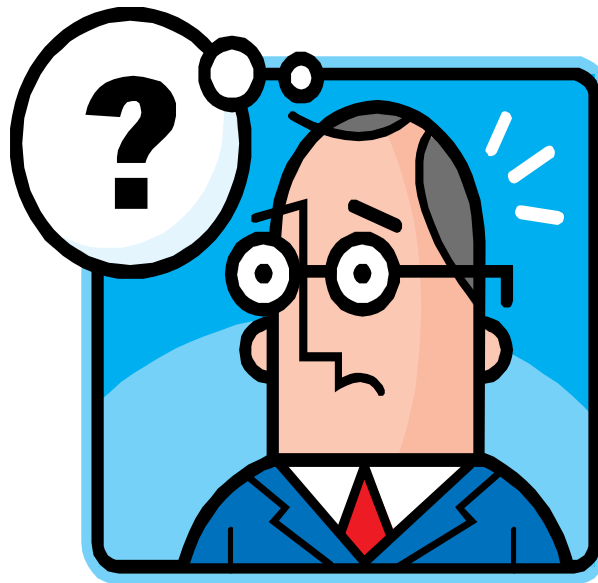
Consequences

- NADOA: after hearing, Ethics Comm. may:
 - Dismiss complaint
 - Make public or private censure
 - Suspend for stated period of time
 - May be readmitted after suspension if accused submits affidavit of full compliance with Ethics Code during suspension; pay dues and reinstatement fee
 - Allow resignation
 - Expel accused
 - Those who resign or are expelled may apply for readmission after 3 years
- Accused may appeal to Board of Directors within 45 days of decision





QUESTIONS?



Thank You



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