First chapter and introduction from

Complying with

THE ETHICS MANDATES of the FEDERAL ACQUISITION REGULATION

Michael Palmer, J.D., Ph.D.

Ethics By Design

© 2011

By Michael Palmer

ALL RIGHTS RESERVED

For information about permission to reproduce selections from this book, write to

Legal Access Press

P.O. Box 7

Middlebury Vermont 05753

ISBN 10: 0985022515

ISBN 13: 978-0-9850225-1-8

Printed in the United States of America

Business is doing things for each other.

Ethics is getting along with each other.

Business ethics is getting along with each other while doing things for each other.

All the rest is commentary.

Table of Contents

Preface 6

The Ethics Mandates in a Nutshell 7

Introduction: How We Got Here 9

Part One: The FAR Ethics Mandates 15

- What the FAR Says About Ethics 16
- Key Definitions 17
- The General Ethics Policies 21
- Structural Requirements for Corporate Governance 21
- The Mandatory Disclosure Rule 25
- The Hotline Poster 26
- Whistleblower Protections 27
- Improper Business Practices 29

Part Two: Implementing the FAR Ethics Mandates 34

- Creating a Business Ethics Awareness and Compliance Program 35
  - Mission, Vision, Values, and Virtues 36
  - Code of Business Ethics and Conduct 43
- The Internal Control System 56
  - Displaying the Hotline Posters 61
  - Protecting Whistleblowers 62
- Complying With the Mandatory Disclosure Rule 66
- Measure It 67

Postlogue: The Importance of Vigilance – A Fable 78

Appendixes

- Appendix A: Selected Excerpts from the FAR 80
  - Subpart 1: Purposes, Authority, Issuance 83
  - Part 3: Improper Business Practices And Personal Conflicts Of Interest 90
  - Part 52: Solicitation Provisions And Contract Clauses 139
- Appendix B: Useful Links 166

Appendix C: Helpful Organizations 167
Appendix D: Annotated Bibliography 173
Appendix E: Excerpts from Title 5, Office of Government Ethics 175
About Ethics By Design 185
About the Author 186

How to use the hyperlinks:

Throughout the book the page numbers in the table of contents and references to the sections of the FAR are shown with embedded hyperlinks. To jump to the linked section, simply mouse over the link and click on it. To return to the place you began, press Alt + left cursor.

The footnote numbers in the text are hyperlinked to the footnote content. Return to the main text by using Alt + left cursor as well.

Hyperlinks in the footnote section are to web pages on the Internet.

PREFACE

The ethics mandates of the FAR regulate how companies that do business with the United States must govern and conduct themselves. In colloquial terms, the United States wants to do business only with companies it can trust to perform at a high level of competence and integrity. It does not want to do business with companies whose lack of ethical resources and controls make them more likely to engage in improper business practices or sleazy, underhanded, corrupt, shady, fraudulent, or criminal acts. The ethics mandates of the FAR are an effort to make sure that only the best companies can win and get paid on contracts with the Federal Government.

The ethics mandates are also an effort to assure that good companies are not competing against those who cut corners, bribe officials, submit fraudulent bids and bills, and otherwise try to rig the game. These policies and rules try to remove the bad apples from the barrel.

All companies want to do business only with people and entities they can trust. In the United States, alas, that often means that business transactions are laden with lawyers and dense contractual documents. However, business deals with the Government of the United States are different from non-governmental contracts in one key respect. Not only can the Government cancel contracts in which a contractor has behaved unethically; it can also put the principals of the contractor in jail and levy fines severe enough to put the contracting company out of business.

Honest business people and their companies welcome the effort to level the playing field. Like enforceable contracts backed by the resources of a reliable judicial system (Rule of Law), the Ethics Mandates make it more likely that good companies will not be pushed aside by bad ones.

The Ethics Mandates in a Nutshell

The Basic Policy

"Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. . . . " 3.101-1

What Every Contractor Must Do

"Government contractors must conduct themselves with the highest degree of integrity and honesty." 3.1002(a)

What Every Contractor Should Do

All contractors should have a written code of business ethics and conduct. To promote compliance, they should also have an employee business ethics and compliance training program and an internal control system that (1) are suitable to the size of the company and extent of its involvement in government contracting, (2) facilitate timely discovery and disclosure of improper conduct in connection with government contracts, and (3) ensure corrective measures are promptly instituted and carried out. 3.1002(b)

All contractors should disclose fraud and illegal activity when discovered. 3.1003

What Contractors Must Do If the Contract Exceeds $5 Million and Lasts More than 120 Days[1]

The contractor shall exercise diligence to prevent and detect criminal conduct and otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

All covered contractors must put a **Business Ethics Awareness and Compliance Program** in place that includes

- a written code of business ethics and conduct,
- an ethics code training program,
- an ethics hotline reporting system, and
- a whistleblower protection system.

3.1004(a) and 52.203-13(c)(1)

[1] These provisions do not apply to contracts for commercial items (pens, pencils, automobiles, desks, etc.) or to contracts that will be performed entirely outside the United States.

All covered contractors must develop an **Internal Control System** that

- establishes standards and procedures to facilitate timely discovery of improper conduct and
- ensures corrective measures are promptly instituted and carried out.

The Internal Control System must

- assign responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system;
- take reasonable steps to assure that no individual is included as a principal who has violated the contractor's code of business ethics and conduct;
- provide for periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—
  - monitoring and auditing to detect criminal conduct;
  - periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and
  - periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.
- establish an internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.
- take disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.
- disclose in writing whenever the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations or a violation of the civil False Claims Act.
- protect whistleblowers from all forms of reprisals.

3.1002(b) and 52.203-13(c)(2)

All covered contractors must also display the Agency Hotline Poster. 52-203-14

INTRODUCTION

"The life of the law has not been logic, but experience."

Oliver Wendell Holmes, Jr.

This book explains the ethics requirements of the Federal Acquisition Regulation (FAR) for nonlawyers and lawyers alike. For the lawyers, who need access to the precise language of the regulation and related materials, the book includes an extensive set of appendixes that contain excerpts from the FAR, model forms, and hyperlinks to other useful materials.

The book is addressed to ethics and compliance professionals, senior executives, managers, lawyers, consultants, government agents, and others who need to know what companies must do to comply with the FAR's ethics requirements.

Although the current ethics provisions were promulgated shortly after enactment of the Close the Contractor Fraud Loophole Act of 2008, the actual content was not dreamed up from scratch by people mulling over ethical theories. Rather, the law of corporate ethics has a long and broad history. The ethics provisions of the FAR are just one of the more recent attempts to articulate more precisely the ethics expectations and requirements for those who want to sell goods and services to the United States.

On the grand scale, the FAR ethics requirements are the latest in a series of responses to the widely held belief that business is and should be conducted in an ethics-free zone, that morality has no claim on the activities of business people. This view received its most popular expression in *The Godfather*, when Michael explains his plan to kill a corrupt police officer, "It's not personal, Sonny. It's strictly business."[2] This notion has an academic pedigree as well, reaching back in one form or another at least to 1612 when Lord Coke opined: "[Corporations] cannot commit treason, nor be outlawed, nor excommunicate, for they have no souls."[3] More recently, the effort to ban ethics from business was articulated in a 1958 *Harvard Business Review* article, in which Theodore Levitt wrote: "The governing rule in industry should be that *something is good only if it*

---

[2] Variations of the phrase "it's not personal; it's business" occur in several places, the notion being a theme that runs like a red thread throughout the movie. *See* Memorable Quotes for *The Godfather*.
[3] *Case of Sutton's Hospital* 77 Eng Rep 960 (1612). The full context of the remark shows that Coke also disputes the notion, contrary to U.S. Supreme Court law, that a corporation enjoys the rights of a natural person: "For a corporation aggregate of many is invisible and immortal, and rests only in intendment and consideration of the law. They cannot commit treason, nor be outlawed nor excommunicate, for they have no souls; neither can they appear (in Court) in person, but by attorney. A corporation aggregate of many cannot do fealty, for an invisible body can neither be in person nor swear. It is not subject to imbecilities, death of the natural body, and divers other cases." Quoted in Clarence F. Birdseye, "Have Corporations Moral Natures?" 109 *The Outlook* 782 (March, 1915). Birdseye observes that Coke's remark was *obiter dictum* (i.e., not part of the decision of the case) and, in any event, "[i]t was not good law in 1613, and has never been since." *Id.* at 783.

pays. Otherwise it is alien and impermissible. This is the rule of capitalism."[4] It was a short skip from Levitt's profit-is-the-only-thing view to the narrow version of cost-benefit analysis epitomized in Judge Richard Posner's query whether corporations should obey the law only when the benefits of compliance outweigh the costs.[5] The intellectual child of such thinking is the remark by Greg Reyes that helped convict him of fraud and land him in the pokey for 21 months: "It's not illegal if you don't get caught."[6]

There has always been a contrary view to the notion that business is an ethics-free zone. In 1913, James Cash Penney promulgated a code of ethics for the nascent J.C. Penney Stores and dozens of companies followed suit.[7] In 1915, Clarence Birdseye made a cogent case for viewing the corporation as a moral agent.[8]

In a 1927 article, Wallace B. Donham. the Dean of the Harvard Business School, argued for a greater reliance on "the creation of sound intellectual, social, and ethical standards and on the development of leadership outside the courts and the law" in the practice of business.[9] Donham added that the legal control of industry must establish minimum

---

[4] Theodore Levitt, "The Dangers of Social Responsibility," *Harvard Business Review* 48 (September-October, 1958)(emphasis in original). *See also* Milton Friedman, "The Social Responsibility of Business is to Increase Its Profits," *The New York Times Magazine* (September 13, 1970). Both Levitt and Friedman and other opponents of social responsibility writing during this period were exponents of a struggle against Communism or, as Frederick Hayek put it, *The Road to Serfdom*. They saw themselves, no doubt, as warriors in an ideological struggle of existential importance.

[5] *See* Richard Posner, *Economic Analysis of Law* 421 (4th edition, Boston: Little, Brown & Co., 1992)("An important question . . . is whether the corporation should always obey the law or just do so when the expected punishment costs outweigh the benefits of violation . . . If those costs are set at too low a level, the corporation has an ethical dilemma."). By "ethical dilemma," Posner presumably means that the corporation (note, he does not say the CEO or any other executive) has two inconsistent obligations, one to the shareholders (to maximize wealth by whatever means possible) and one to society as embodied in the law. But this assumes that the shareholders have a moral claim on the corporation that supersedes the law and that would obligate the corporation to violate the law when there is a net financial benefit to the shareholders in doing so. However, the implicit bargain between shareholders and society that arises out of the exemption from liability that society grants to the shareholders precludes this supposed moral claim. Part of the implied reciprocal obligation (embedded in most state corporation law statutes) is to engage only in legal activity. The Gambino crime organization cannot legally incorporate in order to pursue its criminal activities. Thus, the supposed ethical dilemma that Posner posits does not exist. Corporations have both a moral and a legal obligation to obey the law and, as agents of the corporation, employees do as well.

[6] The statement came to light when a former Human Resources official at Brocade Communications testified that Reyes made the comment to her in the context of options backdating. *See, e.g.,* "It's Not Illegal If you Don't Get Caught," White Collar Crime Prof Blog, June 21, 2007.

[7] *See* discussion infra at note 40.

[8] Clarence F. Birdseye, "Have Corporations Moral Natures?" 109 *The Outlook* 782 (March, 1915). This line of argument was renewed independently by Peter French and others in the 1980's. *See, e.g.*, Peter A. French, *Collective and Corporate Responsibility* (New York: Columbia University Press, 1984); Peter A. French, Jeffrey Nesteruk, and David T. Risser, *Corporations in the Moral Community* (New York: Harcourt Brace Jovanovich, 1992).

[9] Wallace B. Donham, "The Social Significance of Business," 4(4) *Harvard Business Review* 406, 414 (1927).

standards, noting that "[i]ntelligent self-interest can be used to justify the thug, the fly-by-night, the bank officer who uses his position to maneuver his customer into a position where he may profit individually from the customer's distress, or the creed of Shylock. All these must be controlled by law."[10] Aware that the law is a blunt instrument, however, Donham added that most of the "higher developments" must "be from within," adding that "we must build up the intellectual basis for enlightened self-interest."[11]

Donham reasoned that the corporate manager "is entirely entitled to conduct his business affairs with reference not only to the present but to the future, just as the trustee is always charged with considering both the life tenant and the remainderman. He is entitled, therefore, to consider not only the permanency and good standing of his institution but the sound stability and development of his community. There is a growing recognition of these facts."[12]

Robert Wood Johnson II was one of those who recognized these facts during the same era in which Bonham wrote about them. Johnson went to great lengths to build Johnson & Johnson on a sound moral footing, with respect for the customers, medical personnel, employees, and communities in which the company did business. And he put his money quite literally where his mouth was, promulgating the famous Johnson & Johnson *Credo* at the moment in 1944 when (as the largest shareholder) he took the company public.[13] Despite the enormous financial success of Johnson & Johnson doing business as an intentionally ethical company,[14] Johnson could not persuade his fellow industrialists to adopt this approach.[15] The dominant *American Business Creed*[16] for much of the business community from the 1930's through the present has remained that articulated by Theodore Levitt: Profit is the only value. Ethics be damned.

---

[10] *Id.* at 415.
[11] *Id.*
[12] *Id*.
[13] The story is told in detail in Lawrence G. Foster, *Robert Wood Johnson: The Gentleman Rebel* 277-287 (State College, PA: Lillian Press, 1999).
[14] The initial share price in 1944 when the company went public was $37.50. An investor who purchased 100 shares at that time and held it "would see it grow, with stock splits, to 124,848 shares valued at about $12 million by 1999, not counting dividends." *Id.* at 284.
[15] *See* Foster, *supra*, at 223-235.
[16] *See* Francis X. Sutton, Seymour E. Harris, Carl Kaysen, and James Tobin, *The American Business Creed* (Cambridge: Harvard University press, 1956), which purports to be "an examination of the ideology of American business, as it is revealed in the public statements of business leaders, the institutional advertisements of large corporations, the literature of such business associations as the United States Chamber of Commerce, the Committee for Economic Development, and the National Association of Manufacturers." Preface at vii. It is noteworthy that this book nowhere mentions Robert Wood Johnson or any of the books, pamphlets, and symposia that he wrote and organized on the responsibilities of business for over 25 years before *The American Business Creed* was published in 1956. In effect, Johnson was simply ignored in business circles and, alas, is seldom mentioned in studies of the history of corporate social responsibility today.

Beginning in the late 1960's, successive waves of corporate scandals involving antitrust violations, securities fraud, and federal contracting fraud led to a series of voluntary efforts to introduce ethics and compliance into the corporate system, making it an integral part of corporate governance.[17] Following new scandals involving excessive defense contracts and insider trading in the early 1980's, President Reagan appointed a Blue Ribbon Commission on Defense Management to "study the issues surrounding defense management and organization, and report its findings and recommendations."[18] Chaired by David Packard, co-founder of Hewlett-Packard, The Packard Commission delivered its report to the President on June 30, 1986.

In response to the recommendations of The Packard Commission, 46 leading contractors in the defense industry created the Defense Industry Initiatives on Business Ethics and Conduct and agreed to voluntarily adopt and enforce codes of conduct.[19] Following the recommendations of The Packard Commission, in 1988, the Department of Defense adopted regulations requiring defense contractors to develop internal control systems designed to promote ethical business behavior and to facilitate the discovery and disclosure of improper conduct in connection with Government contracts.[20] The voluntary disclosure program, inspired perhaps by a similar program

---

[17] The history of this development is told in several excellent law review articles, including Joan T.A. Gabel, Nancy R. Mansfield, and Susan M. Houghton, "Letter vs. Spirit: The Evolution of Compliance into Ethics," 46 *American Business Law Journal* 453-487 (2009); ABA Program of the Ad Hoc Committee on Corporate Compliance, "Corporate Compliance Programs in the Aftermath of Sarbanes-Oxley," (ABA Business Section, April 4, 2003); Harvey L. Pitt and Karl A. Groskaufmanis, "Minimizing Corporate Civil and Criminal Liability: A Second Look at Corporate Codes of Conduct," 78 *Georgetown Law Journal* 1559-1654 (1990).

[18] *A Quest for Excellence: Final Report to the President by the President's Blue Ribbon Commission on Defense Management* xi (1986) ["The Packard Commission Report"].

[19] Pitt and Groskaufmanis, *supra*, at 1594.

[20] "Defense Contractor Internal Controls," 48 C.F.R. § 203.7000 (1988). Under this regulation, the contractor's internal control system should include

> (a) A written code of business ethics and conduct and an ethics training program for all employees;
>
> (b) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with standards of conduct and the special requirements of Government contracting;
>
> (c) A mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports . . .;
>
> (d) Internal and/or external audits as appropriate;
>
> (e) Disciplinary action for improper conduct;
>
> (f) Timely reporting to appropriate Government officials of any suspected or possible violation of law in connection [sic] with Government contracts or any other irregularities in connection with such contracts; and
>
> (g) Full cooperation with any Government agencies responsible for either investigation or corrective actions.

Pitt and Groskaufmanis, *supra,* at 1595 n217.

devised by the Securities and Exchange Commission,[21] soon became popular with defense contractors, and the Department of Defense developed a standard voluntary disclosure agreement.[22]

Despite the incentives to comply with the internal control system and voluntary disclosure regulations (companies with good programs have a mitigation defense in criminal proceedings; those that do not, risk debarment for three years), the program was not fully successful.[23]

The lack of complete success of the program might be attributable to several factors,[24] but one of the most likely candidates is the fact that it was voluntary. Voluntary social control programs that have no group enforcement mechanism set up opportunities for free riders, people or companies that view voluntarily compliance as foolish and that, in this case, engage in various improper business tactics, including bribery and buying in (the practice of bidding below cost to win the contract). Honest bidders incur costs that the free riders do not, thereby putting them at a disadvantage, increasing pressure to join the free riders, and leading eventually to the destruction of the common good.[25]

---

[21] *See* Richard H. Porter, "Voluntary Disclosures to Federal Agencies -- Their Impact on the Ability of Corporations to Protect From Discovery Materials Developed During The Course Of Internal Investigations," 39 Catholic University Law Review 1007, 1019 (1990).

[22] *Id.*

[23] *See, e.g., Department of Defense Report to Congress on Contracting Fraud* (January 2011)(listing frauds committed by over 100 defense contractors between 2007 and 2009, 30 of whom received criminal convictions with 91 having been the subject of civil judgments involving fraud).

[24] Caution is advised when seeking to identify causes of social behavior, of course, but past experience makes it likely that some crude form of cost-benefit calculation is at work in the minds of employees chiefly responsible for fraudulent behavior, leading them to seize immediate benefits for themselves while ignoring or downplaying the potential costs to the company down the road. Diffusion of responsibility within the corporation could be an additional factor. These and other weaknesses in a corporation's internal control system need to be addressed head on in the effort to build a robust ethical culture within the organization.

[25] This is an instance of what social scientists call a social dilemma or social trap. Bo Rothstein provides an in-depth discussion and analysis of the problem in the context of the relationship between reliable legal institutions and economic prosperity that is particularly relevant to the question of why voluntary disclosure programs are unsuccessful. *See* Bo Rothstein, *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005). Voluntary solutions to social dilemmas such as the ethics problem for government contractors are feasible, but only if those who control the common good administer them. For example, *See, e.g.,* Thomas Dietz, Elinor Ostrom, and Paul C. Stern, "The Struggle to Govern the Commons," 302 *Science* 1907-1912 (2003); Vincent Ostrom and Elinor Ostrom, "Public Goods and Public Choices," in E.S. Savas (ed.), *Alternatives for Delivering Public Services: Toward Improved Performance* 7-49 (Boulder, CO: Westview Press, 1977)(" So long as rules of voluntary choice apply, some individuals will have an incentive to 'hold out' or act as 'free-riders,' taking advantage of whatever is freely available. If some are successful in pursuing a holdout strategy, others will have an incentive to follow suit. The likely short-run consequence is that voluntary efforts will fail to supply a satisfactory level of public goods. Individuals furthering their own interest will fail to take sufficient account of the interests of others and the joint good will inexorably deteriorate."). In the case of the voluntary disclosure program, the public good involved was the lower cost of doing business with the government derived from fewer mandatory

Whatever the cause of the failure of the voluntary disclosure program, in June 2008, Congress concluded that it was no longer adequate to the task and passed the Close the Contractor Fraud Loophole Act as part of the Supplemental Appropriations Act of 2008, requiring the amendment of the Federal Acquisition Regulation within 180 days to "include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items."[26] The law specified that "covered contract" means "any contract in an amount greater than $5,000,000 and more than 120 days in duration."[27]

The revised ethics and disclosure regulations are now in place. This book explains what they are and outlines steps all companies can take to assure that they are in compliance. In a series of appendixes, the book also provides the excerpts from the text of the FAR itself, additional resources on ethics in business, and hyperlinks to useful resources on the Internet.

Please note that this book contains only an abbreviated discussion of the Mandatory Disclosure Requirement, that subject having been thoroughly covered in Robert K. Huffman and Frederic M. Levy (eds.), *Guide to the Mandatory Disclosure Rule: Issues, Guidelines, and Best Practices* (Chicago: American Bar Association, 2010).

> "There is no kind of dishonesty into which otherwise good people more easily and frequently fall than that of defrauding the government."
>
> Benjamin Franklin

---

regulations. That good was effectively destroyed by the free-rider phenomenon, thus leading to the use of government power to police the common good of fraud-free contracting.

[26] Public Law No 110-252, Title VI (Accountability and Transparency in Government Contracting), Chapter 1 (Close the Contractor Fraud Loophole), Section 6102, June 30, 2008. The law provided the statutory authority for regulations expected as the outcome of a process that the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration had already started. *See* 72 Fed. Reg. 64,019 (November 14, 2007).

[27] *Id.* at Section 6103.

About the Author

Michael Palmer is the Founder of *Win Before Trial*, a legal risk management firm that helps organizations prevent and resolve legal disputes wisely and cost-effectively.

In addition to this book, Mike has written several online ethics courses, including *Ethics in a Professional Context*, *Promoting Personal Integrity in Organizations,* and *How to Create a Code of Conduct for Your Organization,* as well as numerous articles and essays on ethics, negotiation, dispute resolution, and litigation risk management. He is also the author of *Win Before Trial: What Lawyers and Clients Must Know to Get the Best Outcomes Possible*.

A social ethicist and lawyer, Mike has helped hundreds of individuals and organizations develop effective ways to build rapport and manage conflicts in his negotiation and conflict management work. As an international rule-of-law consultant, Mike has also worked on projects to improve judicial systems and commercial law statutes and infrastructure in Jordan, Macedonia, Bosnia and Herzegovina, and Azerbaijan. He has written and lectured on corruption issues, court-annexed mediation programs, commercial law, and bankruptcy. He also consulted on and helped draft a code of conduct for bankruptcy trustees.

Mike has more than 40 years experience as a teacher, lawyer, writer, and consultant. He has variously taught social ethics, theology, philosophy, legal philosophy, conflict management, and practical ethics at the Freie Universität of Berlin, the University of Maryland (Berlin Campus), Chicago-Kent College of Law, Champlain College, and Middlebury College. While at Jenner & Block in Chicago, Mike worked on commercial, anti-trust, trademark, civil rights, and death penalty cases. After moving to Vermont, Mike formed his own law firm, in which he practiced commercial, bankruptcy, and business law. He is active in the Society for Corporate Compliance & Ethics, the Society for Business Ethics, the American Bar Association, and the Vermont Bar Association (currently chair, Public Education Section).

A frequent speaker and resource person, Mike has conducted workshops at international conferences and taught numerous seminars for executives of Fortune 500 companies, consultants, professionals, and business leaders.

Mike received his M.A. and Dr. Phil. degrees from the Freie Universität Berlin and his J.D. from Georgetown University Law Center.