

When you step off the ledge of doubt, there are rewards

Geoffrey Cousins

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Is what's legal always ethical, or does it sometimes take moral courage to stand up against authority? How important a quality is a strong ethical framework in a good leader? These are some of the questions considered by businessman Geoffrey Cousins in the second annual Vincent Fairfax Oration, organised by the St James Ethics Centre.

IT IS PERFECTLY possible to act legally but unethically. Take one noted American businessman and philanthropist. He contributed \$19 million to hospitals and educational and cultural charities and served on their boards. He gave \$6 million to lymphoma research. A businessman, but also a man of broad community interests.

Bernard Madoff, for whatever part of his 150-year sentence he survives, will stay in the Butner Federal Penitentiary in North Carolina. Madoff pleaded guilty to 11 criminal charges involving \$65 billion in fabricated gains, described as the largest investor fraud ever committed by a single person.

But was it committed by a single person? His two sons worked in senior roles in the business but knew nothing of the fraud. His wife worked alongside him virtually daily and also knew nothing. Nor did any employee, nor any client. No one ever does in these instances, except those who are caught.

Often business leaders describe such actions as being committed only by the occasional rogue. It must be unsettling for them to confront the case of UBS, the world's largest privately owned bank, which has admitted a conspiracy to defraud the US government of \$20 billion in tax involving 283 clients.

These incidents are unprecedented in scale and nature. But no one saw, no one knew. In the UBS case many, many people must have known, and that these activities were wrong, and yet apparently no individual stood up against them.

Surely a few stood on the ledge of uncertainty, not sure if they should question their leaders about a practice that appeared to be endorsed by everyone else in the company. The rationalisations come easily: I don't really know. I can't prove it. Shouldn't I be certain before I act? There's a degree of doubt.

Ah yes, doubt. There is a line in the play of the same name by John Patrick Shanley: "Doubt can be as powerful and sustaining as certainty."

You can use doubt to your advantage. If you don't inquire into these matters, you'll never be troubled by them. A distinguished company director said to me, "These things seem to follow you about a bit, Geoff. I've been a director for 30 years and I've never had any problems like that." Really, I thought. Not a serious issue has crossed his path requiring him to make a public stand.

Sometimes the issues are not clear, unless you apply an inquiring mind. Many investors suffered unreasonably in the recent economic crisis because directors in certain companies were forced to sell their holdings, having taken out margin loans on the stock.

There is no law against it, but there is a clear conflict of interest. Almost all directors in public companies agree not to buy or sell shares in those companies except

in certain narrow windows. Yet they sign a document with a bank that could force them to sell at any time. These two things conflict. No director of a public company should have a margin loan on shares in it. It's legal but it's wrong.

Consider price fixing. Justice Peter Heerey, in the Visy cartel case, said: "Every day, every man, woman and child in Australia would use or consume something that at some stage has been transported in a cardboard box. The cartel in this case therefore had the potential for the widest possible effect." At the time the Visy case was prosecuted, it was not a criminal offence to fix prices. Now it is.

Who is to stand up on these issues? Just governments? Just regulators? We need more from both but, more importantly, we need individuals to step forward, even if it costs them.

When I was still chief executive at Optus, I was invited to address a Herald function. I imagine the Herald thought I would talk about telecommunications or some such. But the week before, Pauline Hanson gave her so-called maiden speech. I thought it disgraceful; its key message was that Aborigines were not an underprivileged group and the influx of Asians into this country would seriously damage our society.

I read a definition of racism and bigotry and extracts from her speech and invited the audience to compare the two. In the Federal Parliament the next day, she said I should be dismissed from my job and never allowed to work in business again.

Shortly thereafter I was invited to coffee with the then deputy lord mayor of Sydney, a gentleman of Chinese extraction. When I got there I was offered no coffee and taken into the Great Hall. A young woman said, "Mr Cousins, we are the choir from the Quandong Province in China and we will sing for you, because you have defended us." They proceeded to sing.

I told the deputy lord mayor it was wonderful but completely out of proportion. I merely made one speech. He replied, "That's all you did. But it was one speech more than anyone else."

When you step off the ledge of doubt, there are rewards. And when you leap, someone, somewhere will sing for you.

This is an edited extract of this year's Vincent Fairfax Oration, delivered by the businessman Geoffrey Cousins. Geoffrey Cousins is a businessman and community leader. In his diverse career he has been the CEO of advertising agency George Patterson and Optus, served on the boards of Telstra and PBL, as well as founding chair of the Starlight Foundation and Sydney's Museum of Contemporary Art. He was also heavily involved in opposing the Gunns Pulp Mill in Tamar Valley, Tasmania. In 2007 he published a novel entitled "The Butcher Bird."

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