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# Ethics, Independence and NOCLAR

Presented by Caryn Maitland  
2020

How important are ethics in today's society?



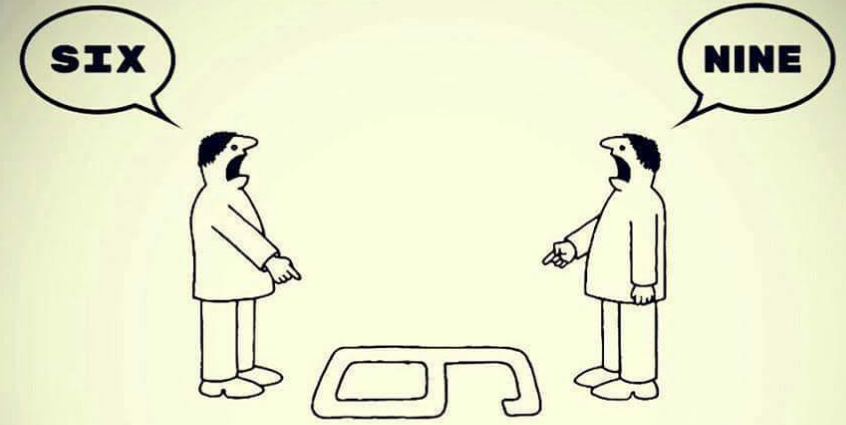
# Mark Twain

*Always do what is right. It will gratify half of mankind and astound the other.*



How deep  
is the mud?  
Depends on  
who you ask.

We all go through the  
same stuff differently.



Just because you are right,  
does not mean, I am wrong.  
You just haven't seen life  
from my side.

# General Ethics





# Our ethical beliefs

- "It is not the things themselves which trouble us, but the opinions that we have about these things."
- Opinions and values (often uncritically held) handed down from generation to generation
- Developed to the point where their validity isn't questioned.

Practice the  
pause

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“ Between stimulus and response there is a space. **In that space is our power to choose our response.** In our response lies our growth and our freedom.

Victor Frankl

# Challenges of the modern world

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One of the biggest mistakes  
we make is assuming that  
other people think the  
way we think.

# Challenges of the modern world

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"It's a problem when words like Turnt, Fleek or Bae are more understandable than actual words like Ethics, Morals Respect and Integrity." - Will Smith

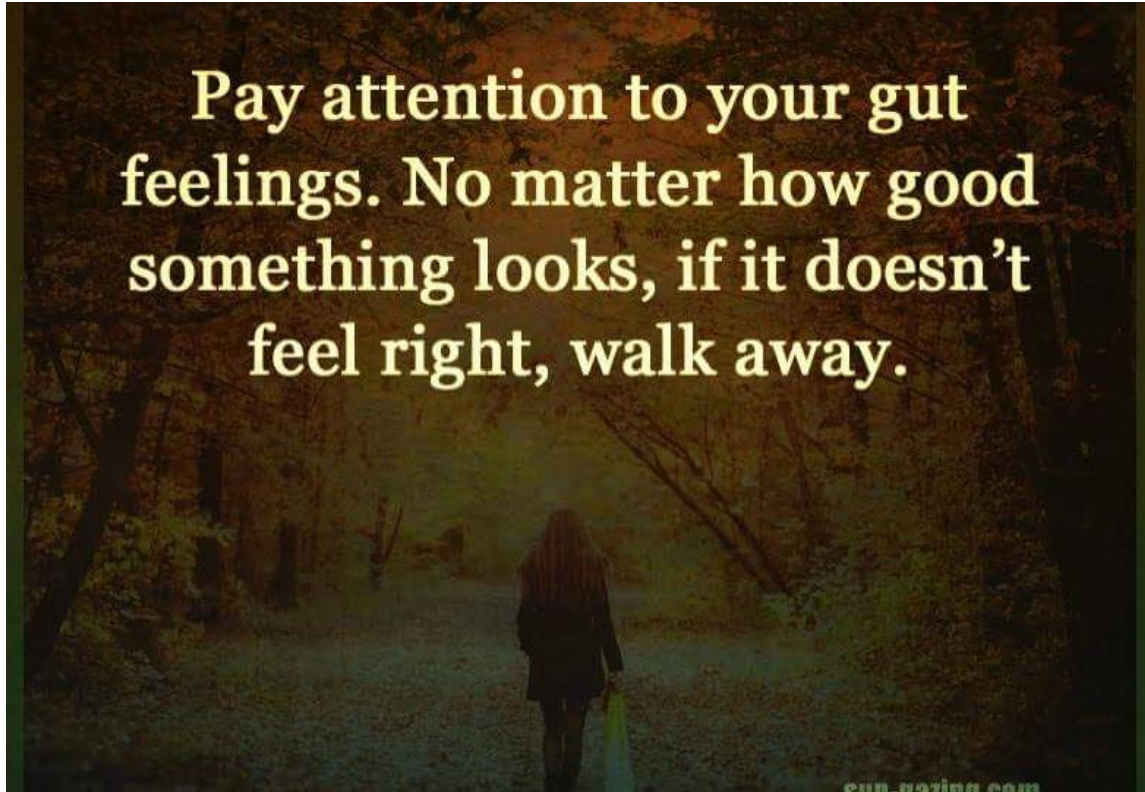
# Challenges facing the profession

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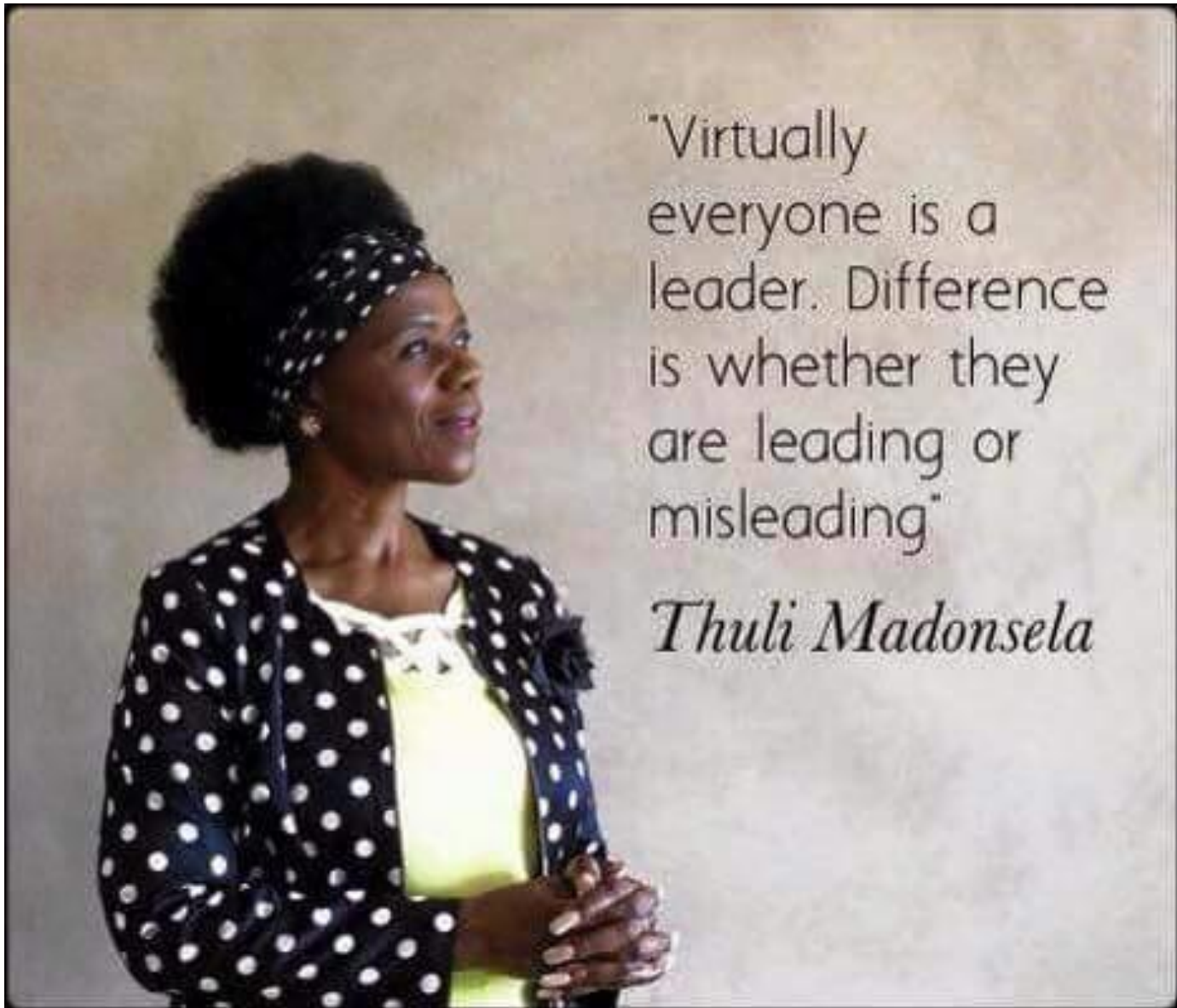
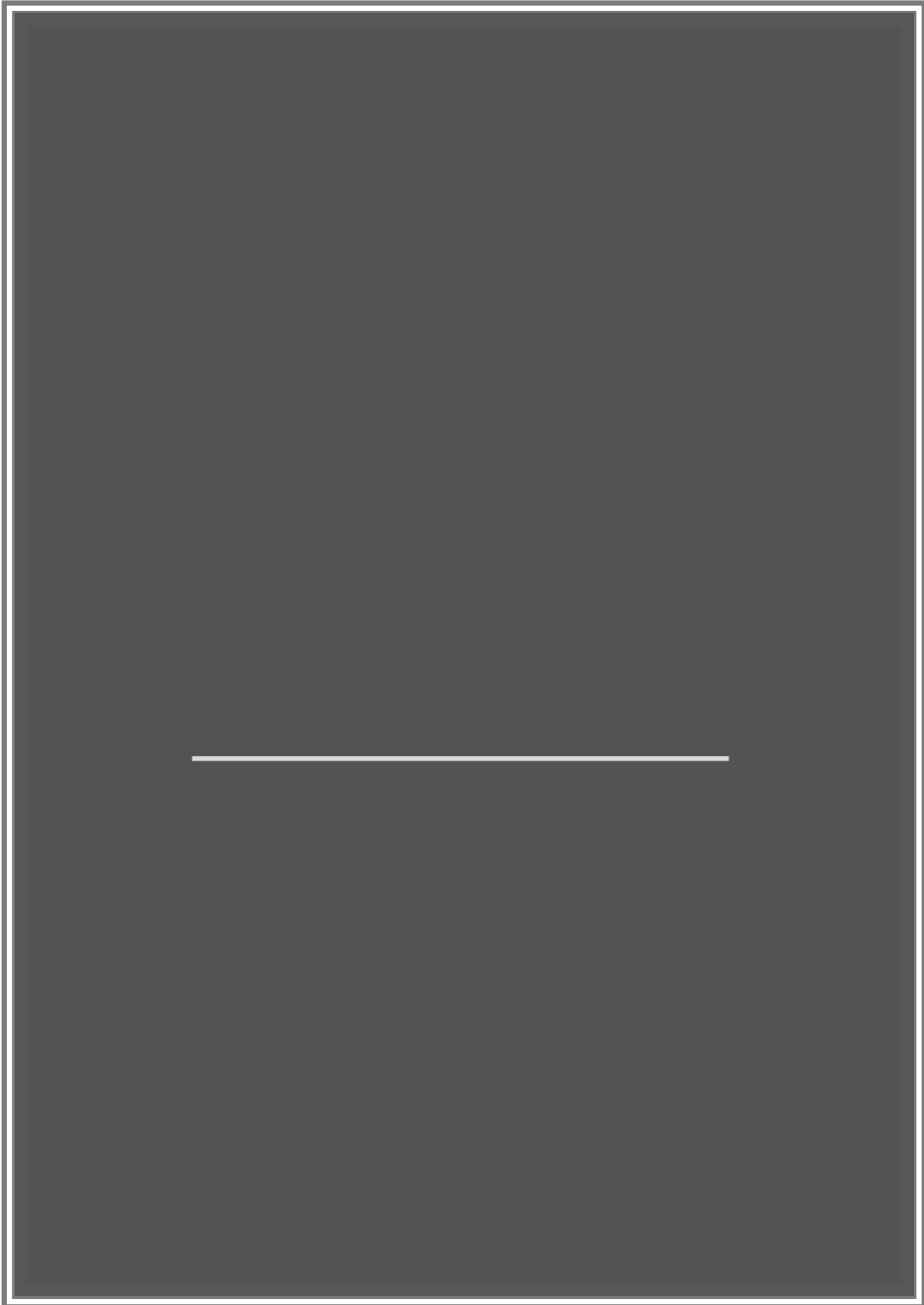
**And you think you're overworked...**

Pay attention to your gut feelings. No matter how good something looks, if it doesn't feel right, walk away.



# Challenges of the modern world







# Challenges of the modern world

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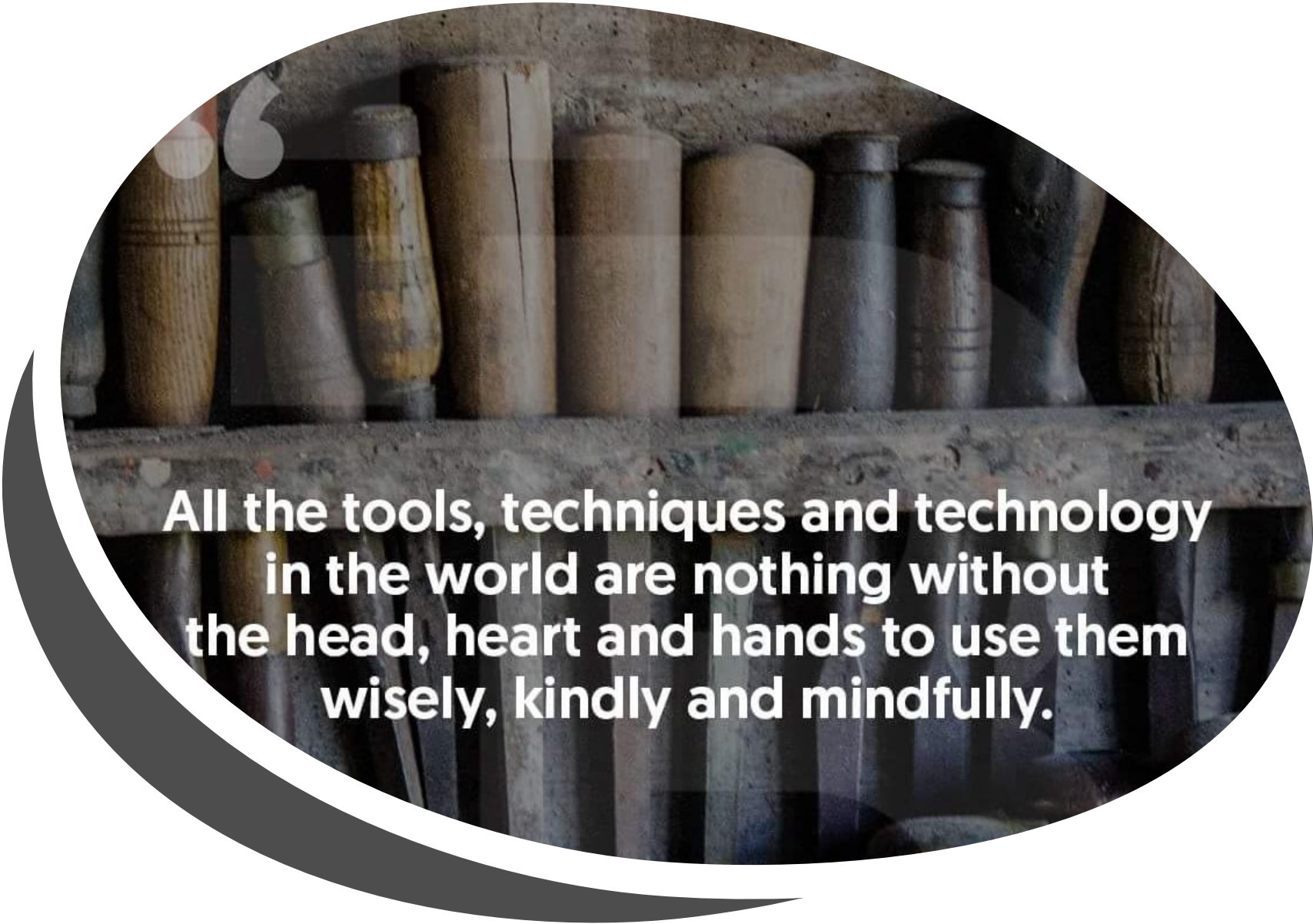
Truth Inside Of You

We need leaders not in love with  
**money** but in love with **justice**.  
Not in love with **publicity** but  
in love with **humanity**.  
~ Martin Luther King

# Role models and leadership

*"One of the hallmarks of effective leadership is empathy. It means the ability to understand something from someone else's point of view. I am advocating more empathy, more servant leadership where the leader is a facilitator rather than the only driver of progress."*

*Daryl D Black*



**All the tools, techniques and technology  
in the world are nothing without  
the head, heart and hands to use them  
wisely, kindly and mindfully.**

# Ethics and the law

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**This is why I have  
trust issues**



# Code of Professional Conduct

## 5 Principles vs 5 Threats

### Independence

# Code of Professional Conduct

- Updated in March 2018
- SAICA and IRBA have adopted the IESBA Code
  - Amended by SAICA
- Applies to CA's, AGA's and trainees
  
- Professional Scepticism
- Holding out

# Objective

- A distinguishing characteristic of the accounting profession is the acceptance of the responsibility to act in the public interest
- Public Interest
  - Client
    - Self



# Integrity

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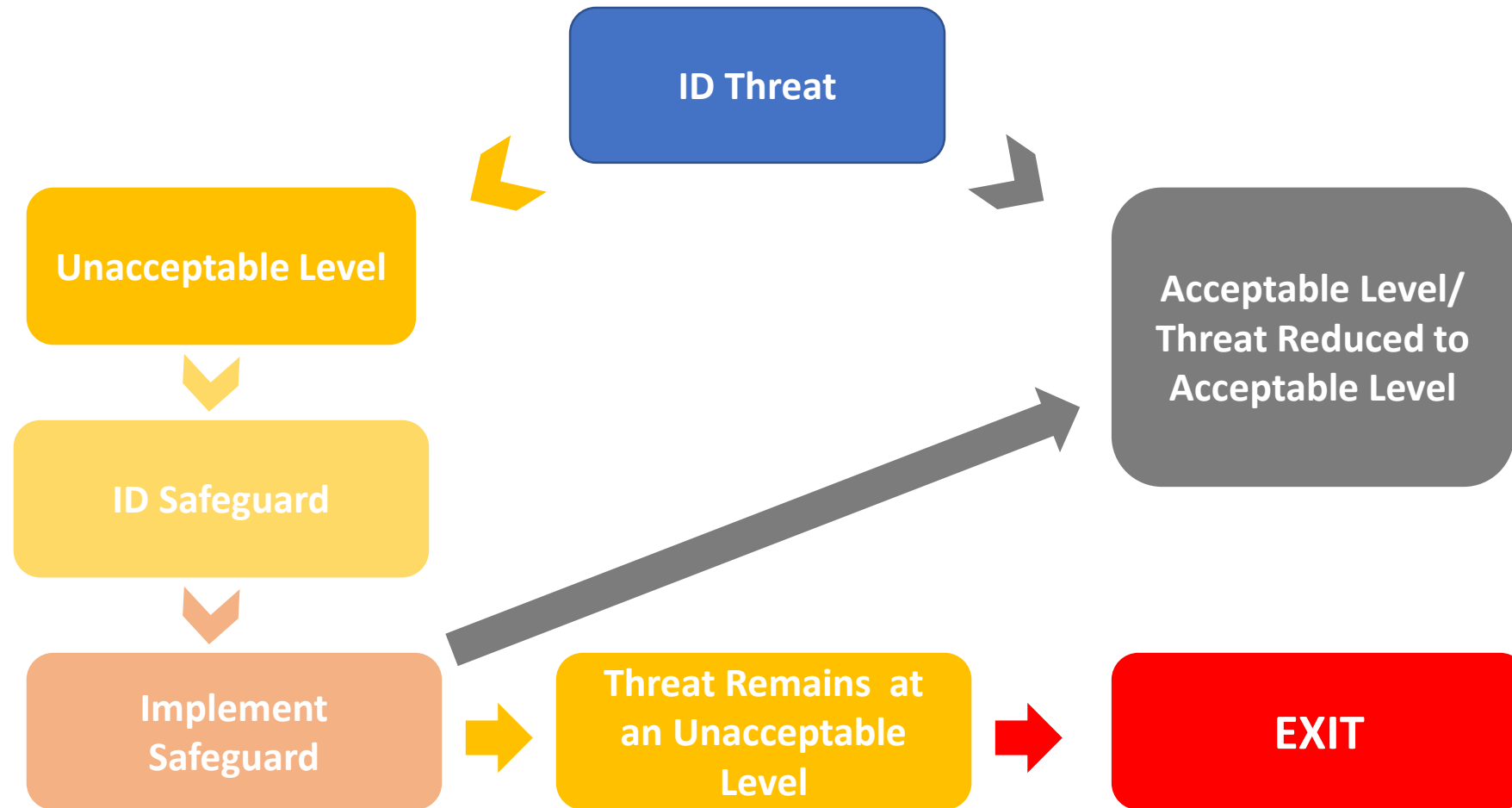


"It costs personal fear to be authentic but the reward is integrity, and by that I mean a soul fully integrated, no difference between his act and his actual person."

Donald Miller

*Simple & Soul*

# Threats and Safeguard Decision Flow Chart



# 5 Principles vs 5 Threats

	Integrity	Objectivity	Due Care	Confidentiality	Professional Behaviour
Self Review					
Personal Interest					
Intimidation					
Advocacy					
Familiarity					

# Safeguards

Safeguards by the profession, legislation/regulation:

- Educational, Training and experience required to enter profession
- CPD
- Corporate governance, legislation and regulations
- Professional Standards
- Professional monitoring and disciplinary procedures
- External review of work done by RA

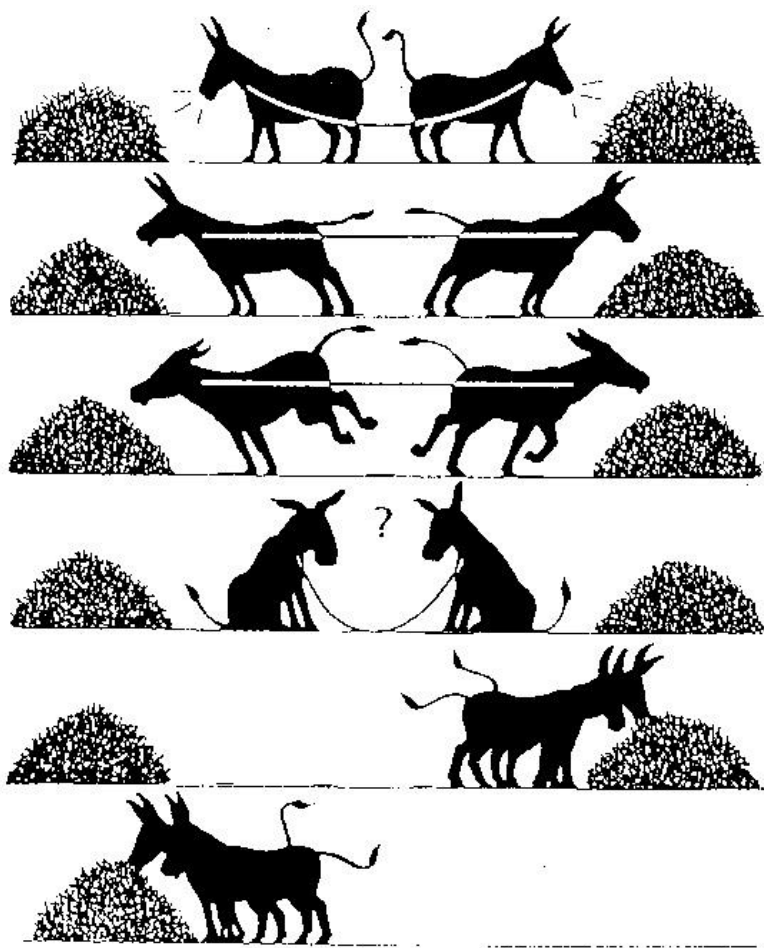
# Code believes that

- Need safeguards to increase likelihood of identifying and deterring unethical behaviour
  - Effective and well published compliant system
  - Explicitly stated duty to report breaches in unethical behaviour
- Need to manage conflicts in interest
- DISENGAGE.....

# Communication

- With those charged with governance
- Make relevant persons aware of limitations inherent in professional services where appropriate

# Ethical Conflict Resolution



# INDEPENDENCE


- Independence
  - of mind
  - in appearance
- Network firms
- Public Interest Entities
  - Section 290.26(a)
- Related entities
- Those charged with governance
- Documentation



Companies Act – S90(2)

# Non-Compliance with Laws and Regulations

## NOCLAR



INTEGRITY IS CHOOSING COURAGE  
OVER COMFORT. IT'S CHOOSING  
WHAT IS RIGHT OVER WHAT IS FUN,  
FAST, OR EASY. IT'S CHOOSING TO  
PRACTICE YOUR VALUES RATHER  
THAN SIMPLY PROFESSING THEM.

-Brené Brown

# Why NOCLAR? – Pope Francis 2014

- In addressing professional accountants who attended the 2014 World Congress of Accountants in Rome, Pope Francis noted that difficult economic times increase the risk of moral hazard by saying:

*“There is a stronger temptation to defend one’s interest without concern for the common good, without paying much heed to justice and legality. For this reason everyone, especially those who practice a profession which deals with the proper functioning of a country’s economic life, is asked to play a positive, constructive role in performing their daily work.”*

A response framework

# NOCLAR - definition

- Acts of omission or commission,
- intentional or unintentional,
- committed by
  - a client or
  - the PA's employing organisation, or
  - by TCWG, by management or by other individuals working for or under the direction of a client or employing organisation
- which are contrary to the prevailing laws or regulations

# Who does it affect?

Professional Accountants (PAs) in public practice

- In providing a professional service to a client
- May encounter or be made aware of NOCLAR

Professional Accountants (PAs) in business

- In carrying out professional activities for his/her employing organisation
- May encounter or be made aware of NOCLAR

# Reasonable expectations of a Professional Accountant

- To recognise NOCLAR, having regard to what should be within the scope of his/her training and experience
- No additional responsibilities to detect NOCLAR
- No increase in the range of laws and regulations (L&Rs) the PA is required to have knowledge of for purposes of
  - performing a given engagement; or
  - the PA's role within the employing organisation
- Not trained lawyers
  - L&Rs that generally relate to a PA's professional training and expertise
  - L&Rs linked to a PA's knowledge in a particular field
  - Not required to have specialised legal knowledge and skills



# Per standards – Reasonably expected to know

- Laws and regulations generally recognised to have
  - a direct effect on the determination
  - of material amounts and disclosures
  - in the financial statements
- Other laws and regulations with
  - no direct effect but compliance with which
  - may be fundamental to the entity's business and operations, or
  - to avoid material penalties

# Examples of Laws and Regulations

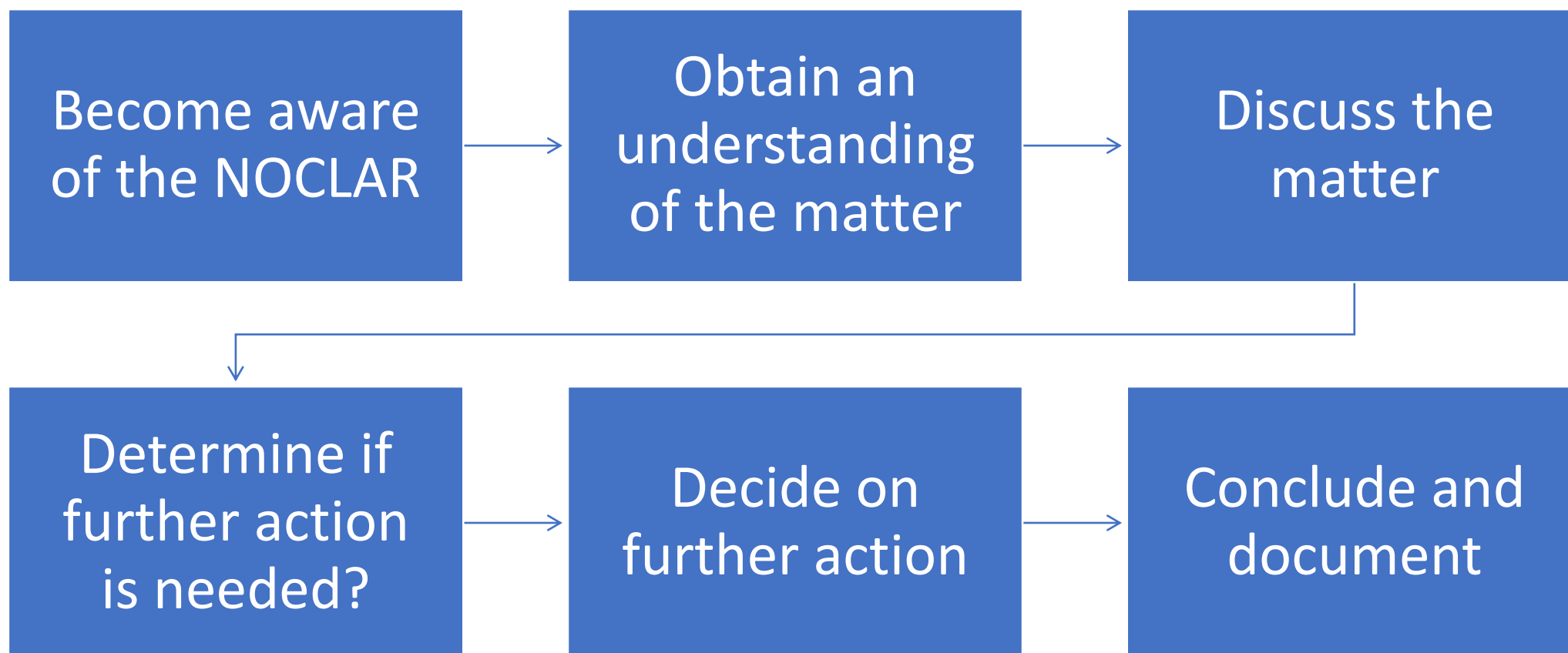
- Fraud, corruption and bribery
- Money laundering, terrorist financing and proceeds of crime
- Securities markets and trading
- Banking and other financial products and services
- Data protection
- Tax and pension liabilities and payments
- Environmental protection
- Public health and safety

# EXCLUDED

- Matters that are clearly inconsequential
- Personal misconduct unrelated to the business activities of the client or the employing organisation
- NOCLAR other than by the client or the employing organisation, or TCWG, management or other individuals working for or under the direction of the client or the employing organisation

# NOCLAR Process/Framework

Exit points??



# QUESTIONS

A large, light grey graphic on the left side of the page, consisting of several overlapping, semi-transparent chevron shapes pointing to the right, creating a layered, geometric effect.

THANK YOU FOR YOUR PARTICIPATION



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