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Virtue Ethics and Investment Advisors in the Canadian Financial Services Industry:
An Application of Alasdair MacIntyre's Tripartite Model of Virtue Ehtics and Moral Philosophy

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Virtue Ethics and Investment Advisors in the Canadian Financial Services Industry: An Application of Alasdair MacIntyre's Tripartite Model of Virtue Ethics and Moral Philosophy

Robert D. Bresnahan

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Virtue Ethics and Investment Advisors in the Canadian Financial Services Industry:

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ABSTRACT

Recent events in global capital markets have underscored the impotence of securities regulation and paucity of ethical behaviour. With the resurgence of virtue ethics it only seems appropriate that a concerted effort should be undertaken to apply this model to the financial services industry.

This thesis will apply Alasdair MacIntyre's tripartite notion of virtue ethics as explicated in his highly acclaimed work *After Virtue* to the role of the Investment Advisor in the Canadian financial services industry. MacIntyre's concepts of practice, narrative order of a single human life and the notion of tradition will be applied to the role of the Investment Advisor and the institutions that accommodate the profession. It will be concluded that MacIntyre's notions of practice and narrative order of a single human life is readily applicable but due to MacIntyre's profound criticism of capitalism, the notion of tradition is more difficult to incorporate comprehensively.

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In Memory of

L.H. Bresnahan (1916-1979) Whose Life Exemplified the Pursuit of Excellence.

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Tables and Figures

Abbreviations

CE	Continuing Education
CFA	Chartered Financial Analyst
CSC	Canadian Securities Course
CDNX	Canadian Venture Exchange
ComSet	Complaints and Settlement Reporting System
CSA	Canadian Securities Administrators
CSI	CSI Global Education Inc. (formerly Canadian Securities Institute)
CPH	Conduct and Practices Handbook Course
FBI	Federal Bureau of Investigation
IIROC	Investment Industry Regulatory Organization of Canada
IDA	Investment Dealers Association
LSE	London Stock Exchange
KYC	Know Your Client Rule (IIROC 1300.1)
NYSE	New York Stock Exchange
MOU	Memorandum of Understanding Regarding Securities Regulation
RCMP	Royal Canadian Mounted Police
RS	Market Regulation Services Inc
TSE	Toronto Stock Exchange
TSX	TSX GROUP Inc. (formerly TSE Inc.)
SRO	Self Regulatory Organization
UMIR	Universal Market Integrity Rules

Virtue Ethics and Investment Advisors in the Canadian Financial Services Industry:

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> A morality that believes itself able to dispense with the technical knowledge of economic laws is not morality but moralism. As such it is the antithesis of morality. A scientific approach that believes itself capable of managing without an ethos misunderstands the reality of man. Therefore it is not scientific. Today we need a maximum of specialized economic understanding, but also a maximum of ethos so that specialized economic understanding may enter the service of the right goals. Only in this way will its knowledge be both politically practicable and socially tolerable.[1]

Introduction

The securities industry appears to be inundated with incessant scandals that generate headlines in an ostensibly unremitting manner. Breaches of the law and contraventions of ethical norms ranging from massive frauds, such as the Enron scandal and more recently the sub-prime loan fiasco, have captured the attention of the public, the media, the judicial system and legislative bodies. "Wall Street's" insatiable thirst for profit and power is not simply confined to high profile situations such as the instances referred to above, but permeates the ranks of the Investment Advisors who provide services to the general public. I am referring to the thousands of financial professionals who have a fiduciary duty toward average citizens endeavoring to accumulate savings and establish financial security for themselves and their families. Securities fraud and unethical behavior of this ilk strikes at the heart of the middle class

[1] Cardinal Ratzinger (Pope Benedict XVI). 1986. "Church and Economy: Responsibility for the Future of the World Economy", *Communio* (Fall) 13: 199-204.

and is a constant threat to the level of confidence that is so greatly required to sustain an efficient and free trading marketplace.

Although banks and other securities firms have adopted various 'codes of ethics' that serve as moral guidelines to the various professional positions within the firms, contravention of securities laws and procedures continue to be an ubiquitous problem in the industry.

From an academic perspective, surprisingly little has been dedicated to the subject of ethics with regard to the role of the Investment Advisor (IA) (Boatman 2008, de Goey 2006). The question of whether the IA is considered to be a professional is somewhat controversial, which has perhaps led to a deficiency in philosophical analysis in this area. The majority of the analysis of professional ethics deals with members of the legal and medical communities. The vast majority of writing in the area of marketing ethics accords little attention to the role of the IA, who in many cases essentially markets the products of his employer or Mutual Fund Company. Most publications pertaining to marketing in the financial services industry emphasize marketing success and strategies. The lack of specific attention to the ethics of marketing securities accentuates the need for further academic investigation and analysis into this matter.

While it is recognized that all governing and regulatory bodies[2] acknowledge the stated problem and make an effort to keep abreast of the situation, it has become

[2] IIROC/COMSET statistics indicate a 40% increase in customer complaints in 2008 over 2007. As well as an increase in internal disciplinary actions, IIR0C (2009) records a 93%

apparent that a concerted effort must be made to inculcate members of the financial community with a strong sense of ethical standards and promote a deeply embedded understanding of what constitutes deviations from standards of moral excellence.

I will argue that that the Canadian securities industry must undertake a comprehensive and recurrent educational program to ensure that representatives deliberately and persistently apply ethical business practices in their field of specialization. Greater priority must be given to ethics in the educational aspect of becoming registered with the organizations and associations that enforce securities regulations in Canada. In order to effectively accomplish this task, the underlying principles of any ethical code adopted by the industry must be supported by a logical and normatively justifiable methodology. Financial professionals must comprehend and embrace these foundational principles with verve and absolute dedication to ensure the legitimacy and efficient enterprise of free market capitalism. Is there an ethical theory that accomplishes this task with greater effect than the status quo?

To instill a 'moral compass' by which to conduct their fiduciary tasks, current ethical training for professionals in the financial services industry focuses on the deontological maxims of duty and responsibility. Is it possible that another normative model of ethical theory would be more effective in subduing the levels of unethical behavior in the industry by encouraging a greater sense of ethical commitment amongst members of the Investment Dealers Association?

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increase in external action being taken through criminal and civil suits. Both the FBI (2006) and RCMP have issued reports indicating the widespread and multifaceted nature of financial crimes in North America.

In Western civilization, the notion of virtue originated in ancient Greece. The four cardinal virtues of justice, temperance, courage and wisdom were central to Plato's moral thesis in his *Republic* (Book IV: 427d – 434d). According to Aristotle (Nichomachean Ethics, 1097a -1099b),[3] the concept of *eudaimonia* described the trait achieved by the person who lives a proper human life. This level of human flourishing could be attained through continued habitual practices and behaviors that result in *arête* (virtue or excellence). The notion of virtue was later incorporated into Christian moral theology by St. Thomas Aquinas in his *Summa Theologiae (*SUMMA THEOLOGICA, Prima Secundae Partis, Q. 61).

Although very little has been dedicated to the moral theory validating the ethical role of the IA, the securities industry has tended to focus on a deontological and/or consequentialist models for the justification of the various codes of ethics that have been adopted.[4] With the resurgence of virtue ethics it only seems appropriate that a concerted effort should be undertaken to apply this model to the financial services industry.

The contemporary revival of virtue ethics has been attributed to G.E.M. Anscombe's essay, "Modern Moral Philosophy" (1958). Anscombe was critical of ethical models based upon law and duty and in their place she advocated a moral philosophy that emphasized character, virtue and the quest for excellence through

[3] The quotes from *Republic* and *Nichomachean Ethics* were accessed from the anthology: Baird, Forrest E., and Walter Kaufman, eds. 2003. Ancient Philosophy 4th ed. New Jersey: Prentice Hall.
[4] IIROC and the CSI focus on deontological and utilitarian ethical models in the Ethics Courses offered. (Canadian Securities Institute. 2004: 2007.)

human flourishing. The acclaim of Anscombe's essay influenced others to revisit the notion of Aristotelianism. One of these philosophers was Alasdair MacIntyre.

Alasdair MacIntyre was born in Scotland in 1929 and began teaching at Manchester University in 1951. Since relocating to the United States in 1969 he has held various academic appointments at several American Universities including Yale, Duke and Notre Dame. Classified as a communitarian, MacIntyre is a radical critic of modernity and liberal individualism, citing the dysfunction of modern practices, institutions and especially contemporary moral discourse. With the publication of the highly acclaimed *After Virtue* (1984), his philosophical project has stimulated renewed interest and compelled vigorous debate on the subject of virtue-based ethics. Subsequent publications that expound on his theory of moral philosophy include *Whose Justice, Which Rationality* (1988), *Three Rival Versions of Moral Enquiry* (1990), *The Tasks of Philosophy* (2006) and *Ethics and Politics* (2006).

MacIntyre provides an uninviting view of the state of modern moral philosophy, claiming its failure to be rationally explainable. He asserts that older forms of moral discourse were more effective within society, particularly singling out Aristotle's moral philosophy as a standard. MacIntyre criticizes the Enlightenment and its influence on contemporary ethics and has called for a return to the Aristotelian tradition in moral philosophy. Can MacIntyre's concept of virtue ethics be employed to improve the status of ethical behavior in the retail sector of the Canadian financial services industry? Is MacIntyre's project compatible with economic liberalism, which is embodied by the practice of *laissez faire* capitalism?

It will be argued that MacIntyre's tripartite notion of virtue ethics can provide a useful philosophical framework to support the formulation of an agent-based ethical model that can be adopted by the Investment Advisors in the Canadian securities industry. However, it will be made clear that MacIntyre's overall theory can be considered somewhat hostile and incompatible with the notion of capitalism and the institutions that support it. Investment Advisors are professionals who are directed primarily towards the attainment of external goods, both for their clients and themselves in an extraordinarily competitive market environment. This social role assumed by the IA appears to be the antithesis of MacIntyre's notion of what would be tolerated in his ideal moral society. In light of MacIntyre's conviction with regard to the moral state of western society, the securities industry is a demanding milieu for the application of his virtue ethic model.

Applying MacIntyre's model to the role of the Investment Advisor is not without its challenges. The activities performed by the IA and the environment in which he operates epitomizes the conditions that characterize the present moral morass which MacIntyre claims is the result of an emotivist framework guiding contemporary moral philosophy. MacIntyre infers that two forms of subjectivity, the liberal-individualism and emotivism, are mutually reinforcing: the result being the ethical quagmire exhibited in today's capitalist society.

Capitalist social practice encourages a non-reflective, instrumental and acquisitive mode of engagement with the world, providing a climate amenable for the emotivist self to thrive.[5] It is this setting in which the IA finds himself, totally immersed in an extraordinarily competitive vocational environment, accompanied by a level of acquisitiveness seldom shared by other professions. It would be difficult to find a better individual in the current emotive-liberalist culture that better exemplifies the moral challenges that confront society. Who better than the IA to apply the concept of virtue ethics to?

An analysis of MacIntyre's critique of modernity will reveal the challenges confronting the Investment Advisor with respect to the moral foundations on which the contemporary liberal individualist society functions. The inadequacies of the deontological and utility-based ethical models will be exposed by analyzing instances that have a direct bearing on the Investment Advisor. Subsequently, by applying MacIntyre's tripartite notion of what constitutes his core conceptualization of virtue, it will be demonstrated that the first two concepts, specifically, the notions of practice and narrative of the unity of a human life can be productively applicable to the role of Investment Advisor in formulating an ethical model that promotes excellence of character and virtuous business conventions. However, the third component of his tripartite model, specifically, MacIntyre's concept of tradition will be revealed to be antithetical to the contemporary economic paradigm of capitalism and hence not a viable aspect of MacIntyre's thesis to apply. (See footnote 25)

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[5] MacIntyre defines emotivism as "the doctrine that all evaluative judgment and more specifically all moral judgments are nothing but expressions of preference, expressions of attitude or feeling, insofar as the are moral or evaluative in character." (MacIntyre 1984: 11-12)

Methodology

The proposed research encompasses the philosophical virtue ethics of Alastair MacIntyre's tripartite model, which includes the notions of practice, the narrative unity of a human life and the concept of tradition. Drawing upon general aspects of MacIntyre's moral philosophy, and appropriating in particular MacIntyre's tripartite model of virtue ethics, the thesis will apply the core concepts of his virtue model to the Canadian securities industry, specifically, the roles of professional retail Investment Advisors.

In order to properly analyze and incorporate MacIntyre's tripartite model, his view of the current state of morality in the Western world must be elucidated. It is necessary to familiarize ourselves with his argument that the state of morality in the liberalist west is a contemporary morass. MacIntyre claims an inevitable product of an unraveling morality is emotivism. "Emotivism is the doctrine that evaluative judgments and more specifically all moral judgments are nothing but expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character" (MacIntyre 1984: 11-12). The cultural milieu of emotivism has produced a society where moral judgment is not grounded on any rational method but merely results from the projection of personal preferences in the most convincing of manners. Emotivism can be best understood by the embodiment of what is the moral life through the roles archetypal *characters* play in society. The securities industry and its professional representatives exemplify this state of affairs; an atmosphere where there seems to be no rational basis for moral approval and the choice of ends, upon examination, seems to be totally subjective. MacIntyre utilizes three typical *characters* to present his argument: the *rich aesthete*, the *manager* and the *therapist*. It is directly in the role of *manager* that we find the financial advisor.

"The *manager* represents in his *character* the obliteration of the distinction between manipulative and non-manipulative social relations" (MacIntyre 1984: 30). The *manager* treats ends as given, concentrating his intellectual skills on technique and effectiveness. For the *manager*, the ends of actions are justified by the desires of those who pursue them; actions that are based on subjective individual aspirations and the persuasive use of words as opposed to the objective rational analysis through the meaning of language. The investment world is rife with those who claim a profound expertise in the business of managing wealth. Who symbolizes and embodies the emotivist culture, the product of a liberalist society better than the professional money manager? It is from this perspective that we shall undertake to analyze the financial professional and determine how MacIntyre's critique of modernity and the tripartite concept of virtue applies to him. Once we have established the money manager's circumstances with respect to this core concept of virtue it will be possible to ascertain how to bring about constructive change in the securities industry.

MacIntyre claims that the three stages mentioned above comprise the development of the core concept of virtue that we must examine if this concept is to become intelligible:

> The first stage requires a background account of what I shall call a practice, the second an account…as the narrative order of a single human life and the third an account…of what constitutes a moral tradition. Each later stage presupposes the

> earlier, but not *vice versa*. Each earlier stage is both modified by and reinterpreted in the light of, but also provides an essential constituent of each later stage. (MacIntyre 1984: 187)

The role of practice is essential to the process of indentifying the core concept. The notion of practice of a particular type provides the arena in which the virtues are exhibited. By a practice, MacIntyre means:

> ...any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved are systematically extended. (MacIntyre 1984: 187)

MacIntyre uses the example that throwing a football with skill is not a practice, but the game of football is. Bricklaying is not a practice but architecture is. This paper will demonstrate that trading securities or marketing securities is not a practice *per se* but the participating in business-as-practice within the institution of economics is.

An analysis of internal and external goods will be examined in detail since these ideas form the core of MacIntyre's concept of a practice. External goods are contingently attached to a practice and are often realized as a result of competition where there are typically losers and winners. These external goods can be achieved in any number of ways and are usually attained in the form of money, power or fame. The impressive income, prestige and managerial power that the 'successful' Investment Advisor enjoys are examples of external goods derived from his practice. External goods are not exclusive to any specific practice: the Investment Advisor may be able to attain the same degree of external goods in a different occupation. Internal goods are competed for as well, "but it is characteristic of them that their achievement is a good for the whole community who participate in the practice" (MacIntyre 1984: 190-191). Unlike external goods, internal goods are specific to individual practices and can only be realized by participating in the practice itself. The personal fulfillment of seeing an investment strategy come to fruition, or a production goal being achieved through diligence and principled business acumen are internal goods available to the Investment Advisor.

It will be demonstrated that although technical skills are required to do the 'mechanical' aspect of an occupation well, it is of great importance that these technical skills be applied in a manner that contributes to the realization of internal goods of the professional and the social institution to which he is associated. This will lead to a critical analysis of the roles of institutions and the integral part they play in the requisite tension between the pursuit of external goods and the realization of goods internal to practices.

MacIntyre claims that "any contemporary attempt to envisage each human life as a whole, as a unity, whose character provides the virtues with an adequate *telos* encounters two different kinds of obstacles, one social and one philosophical" (MacIntyre 1984: 204). The social obstacle arises from the fact that modern lives are split into segments: work being separated from leisure, public life divided from private. These divisions have resulted in man forgetting that a human life is a unity, rather than something that is composed of distinctive parts.

The philosophical obstacles are twofold: First, there is a philosophical tendency to analyze human acts atomistically; action is viewed as independent and isolated from any broader context. At the same time contemporary social theory makes a sharp distinction between individuals and the roles they play. Roles tend to become arbitrary and incompatible resulting in a series of detached and incoherent episodes which exemplify the emotivist self. MacIntyre claims that despite these emotivist dilemmas the narrative self is a natural approach for us to grasp the meaning of our lives. Institutions, practices and other social relations serve as settings that provide a place in which the histories of individuals are situated. Without settings, individual histories would be unintelligible because an agent's actions can only be contextualized by placing his intentions in causal and temporal order in relation to his history and with reference to the role in the history of the setting to which they belong (MacIntyre 1984: 208). It is only when situated in context do the actions of man have certain intelligibility:

> The intelligibility necessary for giving accounts to one another highlights a further moral dimension here....Accountability, a universal element of morality, is built in to the concept of an intelligible human act. The accounts are all the more intelligible when we consider life as enacted narrative. To see life as enacted narrative means making human action intelligible in a narrative history with beginning, middle and end. (Ballard 2000: 18)

Agents are both actors in and authors of narratives; they are affected by the actions and thus narratives of others. Since our narratives are intertwined with the narratives of others, there is the peculiarity of omnipresent unpredictability in our future. This combined with the fact that all lived narratives have a certain teleological character, some future possibilities repel us while others attract us or seem inevitable. The personal identity is simply "the unity of the character which the unity of a narrative requires" (MacIntyre 1984: 218). The agent is not only accountable for himself but is an individual who can also demand and expect others to be accountable. The virtues are those dispositions that sustain us in our teleological quest and help us cope with the dangers and unpredictability that we encounter in that quest.

While the self finds its identity in particular communities, it is not necessarily limited by them. We are bearers of a tradition, a "historically extended, socially embodied argument, and an argument precisely in part about the goods which constitute that tradition" (MacIntyre 1984: 222). An individual's search for the good takes place within the context defined by his personal narrative as it contributes to the community which hosts the society's traditions.

Chapter one will provide an historical overview of the Canadian securities industry. The roles of the various provincial Securities Commissions, Investment Dealers Association, self-regulatory bodies and The Canadian Securities Institute will be described, providing a perspective of where each body stands in regard to the adherence to the ethical expectations of the industry. Legislation, registration publications and documentation from the stock exchanges, security commissions and Investment Industry Regulatory Organization of Canada (IIROC) will be employed to elucidate the current state of affairs in the Canadian securities industry. References will be made to the Canadian Securities Institute (CSI) *Conduct and Practices Handbook*

Course and a critical analysis of the CSI publication *Applied Ethics in the Securities Industry*.

Chapter two will provide an historical overview of the financial services professional. A description and assessment will be made of the ethical models applied to the professions with emphasis on the financial services professional. Boatright's work found in *Ethics in Finance* will demonstrate the principles that are adopted by various members of the financial community. The vast changes that have taken place in the securities industry over the last twenty years will reveal the pressures that professionals in the field experience and also shed light on the state of the institution-registered representative-client dynamic. This examination will be derived from the rules, regulations and procedures adopted by IIROC (Investment Industry Regulatory Organization of Canada). The educational curriculum and registration process will be analyzed using current information from the Canadian Securities Institute. The ethical foundations pertaining to the financial advisor will be abstracted and critically assessed using current literature dealing with professions in general since there is a limited scholarship available pertaining directly to individuals in the profession of providing financial advice. The role of the financial advisor is often compromised since the advisor is also in a marketing role. The conflicts that arise from this dual position will set the stage for the basic ethical problems that exist in this sector of the securities industry.

In chapter three, MacIntyre's critique of modernity will be examined, interpreted and applied to the individuals and institutions that constitute the structure of the securities industry. The moral dilemmas that confront the IA will be critically evaluated using MacIntyre's assessment of the current ethical models that are applied in the business world. MacIntyre's explication of the emotivist *character* of the bureaucratic *manager* will be applied to members of the investment industry and the social sciences that entail it. The disclosure of the negative aspects of the status quo will lead to MacIntyre's thesis of how virtue can be reestablished in the emotivist culture to which he claims that Western culture has succumbed.

Chapter four, which is comprised of four parts, will directly address the application of MacIntyre's virtue ethics to the profession of the Investment Advisor. MacIntyre's conceptions of a practice, the narrative unity of human life and the role of tradition will be explicated and applied to the educational and professional expectations of the Investment Advisor. Finally, the conclusion will ascertain the viability of applying the concepts of MacIntyre's three part model of virtue ethics to the Investment Industry with specific reference to the role of Investment Advisor.

1. Overview of Canadian Securities Industry

The securities industry plays an integral role in Canada's financial services sector, facilitating both government and industry in the raising of capital in the form of both debt and equity. Today, the industry is comprised of institutional, retail and integrated firms with the integrated firms largely represented by the Canadian chartered banks being the most significant in the generation of revenues.

Canada's first stock exchange was incorporated in Montreal in 1874, followed four years later by the incorporation of the Toronto Stock Exchange by a special act of the Province of Ontario. Chartered banks were the most influential due to their expertise in the underwriting of debt on behalf of the provinces and federal governments. The bank's influence was eventually eclipsed by the rise in the number and financial clout of private underwriting firms, bond traders and equity market brokers. The majority of these securities firms were owned by senior partners and private families and provided services in one of the 'four pillars' of Canadian finance; the other sectors being banking, insurance and trust services. In the mid 1980s the federal government eased the regulations pertaining to the ownership of securities companies by trust companies and banking corporations. In 1987, the federal and provincial governments amended legislation so that banks, trust companies and foreign investment firms could own brokerage firms. The large Canadian banks acquired leading brokerage firms or created their own firms. In addition to the large banks providing services, many smaller specialty firms offer select services to a wide array of clientele. Three broad types of brokerage firms coexist, namely the integrated brokerage firms, institutional brokerage and retail brokerage. At the end of 2001, all the large integrated brokerage firms in Canada belonged to the banks, of which six represent more than 90% of total banking assets in 2002.

With market deregulation, Canadian stock exchanges underwent major structural changes. The Alberta and Vancouver stock exchanges merged in 1999 and became known as the Canadian Venture Exchange (CDNX). A year later the CDNX acquired the Winnipeg Stock Exchange to assume control of junior equities listed in Canada. The Toronto Stock Exchange became the sole senior exchange while the Montreal Stock Exchange (MSE) became the sole derivatives exchange. Another significant structural change in the Canadian securities markets occurred when both the TSE and MSE demutualized[6] in 2000. In May 2001 the TSE acquired full ownership of the CDNX. Canadian equity trading was conducted under the umbrella of one organization for the first time in its history. In July 2002, the TSE Inc. was renamed TSX Inc. and the CDNX, a wholly owned subsidiary of the TSX was renamed the TSX Venture Exchange Inc.

The structural changes that took place in the Canadian stock exchanges lead to new demands being placed upon the traditional operations, the mandates of the provincial

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[6] Demutualization is the process through which a member-owned company becomes shareholder-owned: Demutualization was originally used to refer specifically to this conversion process by insurance companies; the term has since become more broadly used to describe the process by which any member-owned organization becomes shareholder-owned. Worldwide, stock exchanges have offered another striking example of the trend towards demutualization, as the London Stock Exchange (LSE), New York Stock Exchange (NYSE), Toronto Stock Exchange (TSE) and most other exchanges across the globe have either recently converted, are currently in the process, or are considering demutualization.

securities commission and the associated self-regulatory organizations. After the demutualization and subsequent consolidation of the Canadian exchanges, self-regulation became the authority of the Investment Dealer's Association (IDA), which acted as regulator in all provinces except Quebec. Market Regulation Services (RS), which was created as a joint venture of the TSX Group and the IDA, commenced operation in March of 2002. RS Inc. was formed to amalgamate the surveillance, compliance, investigative and enforcement functions of the TSX and TSX Venture exchanges. Acting independently of its two shareholders, this non-profit corporation operated as a neutral regulatory authority in British Columbia, Alberta, Manitoba, Ontario and Quebec. The only other self-regulatory organization (SRO) in the Canadian investment industry was the Montreal Exchange.

In an effort to enhance Canada's securities regulatory system, which was already ranked by the Organisation for Economic Co-operation and Development and the World Bank Group as one of the best in the world, all provinces and territories, except Ontario, signed the 2004 Provincial/Territorial Memorandum of Understanding Regarding Securities Regulation (MOU). Under the MOU provincial ministers committed to adopt a passport system for an improved securities regulatory framework and to develop highly harmonized securities laws. The passport system, when fully implemented, will allow a company to access capital markets in other participating provinces or territories once it obtains the regulatory approvals required in its home jurisdiction. Under this harmonized system registered dealers and advisers will find it easier to offer their services to investors across Canada without re-registering in each province. Harmonized laws are also intended to improve the efficiency and effectiveness of the regulatory framework. The passport system proposed is also intended to improve Canada's capital markets in the global economy. In September 2005, all provinces and territories except Ontario adopted the first phase of the passport system: the Principal Regulator System rule and related policy and procedural changes. Phase two of the passport system will allow participants to clear a prospectus, register as a dealer or adviser, or obtain a discretionary exemption from their principal regulator (i.e. regulator in their home province or territory) and have that decision automatically apply in all other passport jurisdictions. Phase two also ensures public companies are subject to only one set of harmonized continuous disclosure requirements in passport jurisdictions.[7]

The Investment Industry Regulatory Organization of Canada (IIROC)[8] was formed on June 1, 2008 from the merger of the Investment Dealers Association (IDA) and

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[7] See: http://www.securitiescanada.org/index.html . Phase two of the passport system is already in effect for issuers, beginning March 17, 2008, with the implementation of Multilateral Instrument 11-102 Passport System, National Instrument 41-101 General Prospectus Requirements and Multilateral Instrument 62-104 Take-Over Bids and Issuer Bids. Phase two of the passport system will be fully implemented by mid-2009 with the implementation of National Instrument 31-103 Registration Requirements. On February 29, 2008, the Canadian Securities Administrators republished for comment proposed National Instrument 31-103, with the comment period expiring May 29, 2008.

[8] See: http://www.iiroc.ca/English/Pages/home.aspx. The following functions are performed by IIROC:

• Writes rules that set high regulatory and industry standards.

• Screens all investment advisors employed by IIROC- regulated firms to ensure they are of good character and have successfully completed all the required educational courses and programs.

• Conducts financial compliance reviews to ensure that firms have enough capital for the specific nature and volume of their business. IIROC- regulated firms also participate in the

Market Regulation Services Inc (RS). IIROC is the national self-regulatory body that operates under a Recognition Order from the Canadian Securities Administrators (CSA). IIROC is subject to oversight and regular operational reviews by the CSA[9]. As a self-regulatory organization, IIROC is governed by a Board of Directors consisting equally of independent and industry directors. The mandate of IIROC is to set and uphold the quality of regulatory practices by maintaining the integrity and efficient functioning of Canadian capital markets. IIROC regulates operations and standards of practice for debt and equity marketplaces in Canada and enforces the Universal Market Integrity Rules (UMIR).[10]

Canadian Investor Protection Fund which protects individual investors in the unlikely event that a firm should go bankrupt.
• Conducts business conduct compliance reviews to check that firms have procedures in place to properly supervise the handling of client accounts and that advice and transactions appropriately reflect the client's directions.
• Conducts market surveillance to ensure that trading is carried out in accordance with securities trading rules.
• Investigates complaints against a dealer firm, approved person, access person, participant or applicant and takes disciplinary action when rules are broken.

[9] See Canadian Securities Administrators: (http://www.csa-acvm.ca/) The CSA is primarily responsible for developing a harmonized approach to securities regulation across the country. The CSA brings provincial and territorial securities regulators together to share ideas and work at designing policies and regulations that are consistent across the country and ensure the smooth operation of Canada's securities industry. By collaborating on rules, regulations and other programs, the CSA helps avoid duplication of work and streamlines the regulatory process for companies seeking to raise investment capital and others working in the investment industry.

[10] UMIR were established to promote fair, equitable and efficient markets. Prior to the formation of the UMIR, each individual exchange was responsible for governing its trading practices. By making these practices universal Canadian exchanges have attempted to ensure equal fairness and improve investor confidence in all the exchanges

1.1 Morality and Market Regulation

Finance is one of the most heavily regulated sectors of Canadian society. This is due to the fact that the expectation of fairness is paramount to the upholding of confidence through the persistent viability and efficiency of capital markets. The financial services industry is arguably the most visible face of finance to ordinary citizens; it is an industry that impacts the well-being of not only direct participants in the markets, but also affects many third parties such as stakeholders and other community groups. Provincial regulators and securities commissions seek to instill confidence and trust in financial services organizations through legislation and the consequent regulations that derive from such enactment of law. However, as Boatright states: "The law is a rather crude instrument, and it is not suited for regulating all aspects of financial activities, especially those that cannot be reduced to precise rules" (Boatright 2008: 9). It seems that after a deleterious financial incident seizes the public's attention, legislators rush to implement new regulations and laws to curb deviant behavior. Some concerned citizens are left with the impression that the operative adage on Bay Street is "if it is not deemed illegal, then it is morally okay." For the vast majority of participants in the financial services industry this is simply not the case. The management of investment firms realize that the companies and individuals to which they provide their services expect not only compliance with the laws but also implicitly demand ethical treatment. What then is the connection between law and morality in the case of the securities industry?

It must be stressed that there is a difference between compliance and ethics. CSI Global Education Inc. (CSI) is the educational body of IIROC and has the exclusive mandate to provide many of the courses and exams required to work within the securities industry in Canada. The following is stated in the Conducts and Practices Handbook Course (CPHC):

> Compliance is, basically following the rules, whether those rules are legal requirements or firm policies. Ethics involve not only complying with the letter of the law but also complying with the spirit of the law. Therefore, ethics goes beyond prescribed behavior, and address situations where rules are not clear or are contradictory. It is possible to take an action that is unethical, even though one is complying strictly with the rules. (CSI 2007: 1.2)

MacIntyre asserts that "…regulation which is concerned with the safety or quality of goods and services is not itself and expression of any particular moral standpoint, but is rather a substitute for morality at just those points in our social fabric where we no longer possess adequate moral resources" (MacIntyre 1980: 31). Although MacIntyre is clearly supportive of regulation, he recognizes the 'systematic inconsistencies' in our conceptions of justice.

On the one hand, we tend to think of morality positively, where citizens pursue human goods through the notion of community, family, the workplace and other social relationships. We conduct ourselves in a fashion that positively contributes, through participation and communication, in the community: the pursuit of good for all of its members is a common priority of all individuals. On the other hand, we view our social milieu as one of self interest and ceaseless competing desires amongst individuals and rival groups. This negative view holds that self satisfaction and the resultant conflicts that ensue require that we should be protected from each other. In regard to the former view of justice, MacIntyre claims: "From the standpoint that envisages the goal of political society as the creation and maintenance of communities, we do indeed need a system of public law, but only as a system of last resort" (MacIntyre 1980: 32). Using medical malpractice suits as an example, MacIntyre suggests that these legal actions do not rise due to greater negligence on the part of the medical profession but because of the breakdown in trust between physician and patient. The erosion of the moral relationships between individuals has resulted in the law being relied upon much more frequently instead of a social vehicle of last resort.

Where protection from others is paramount, reliance on the law is not an action of last resort but a primary instrument in the functioning of society. MacIntyre explains:

> [W]hen law is thought of in the second way, as a device for protection of one against another, then fear or self-interest become the dominating motives...When the law is in good working order it is not when everyone is obeying the law from fear, or when everyone is obeying the law from calculated self-interest. It is when obedience to law expresses a genuine allegiance to law. Thus it is precisely when the law is least needed, when it is least invoked, that it is in its best working order. When by contrast there is continuous resort to the law, it is generally a sign that moral relations have to some large degree broken down. It is a sign that the motives which make us invoke the law are those of fear and self-interest. And when fear and self-interest have been brought into play, law itself tends to be morally discredited. (MacIntyre 1980: 32-33)

At the time of this paper being written, global markets are experiencing the consequences of a combination of factors, predominately the catastrophic sub-prime loan fiasco and ensuing banking crisis in the United States. This financial debacle and other factors including the speculative bubble in the commodities markets, lead by petroleum products, have resulted in a period of extreme volatility and uncertainty in financial markets. In the early stages of the aftermath of the global monetary crisis, investment firms have been denounced for participating in devious sales practices and implementing deceptive investment policies. It should be noted that transgressions of ethical expectations and regulatory statutes are frequent in the final stages of markets cycles, only to surface as the ensuing downturn gains momentum.[11]

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[11] On December 11, 2008 the Securities and Exchange Commission ("SEC") charged Bernard L. Madoff and Bernard L. Madoff Investment Securities LLC. with securities fraud for an alleged massive Ponzi scheme perpetrated on their advisory clients. According to the U.S. Attorney's office, Madoff admitted to defrauding clients for up to $50 billion in a massive Ponzi scheme that was committed over a number of years. Madoff conducted an investment advisory business providing investment services for wealthy clients, institutions, schools, and charities. Madoff's services were marketed as providing steady double-digit returns even in the most turbulent of markets.

Sometime in 2005, according to the SEC suit, Madoff's investment-advisory business morphed into a Ponzi scheme, taking new money from investors to pay off existing clients who wanted to cash out. As the market declined precipitously in the autumn of 2008, Madoff continued to report to investors that his funds were up which would have been a relatively remarkable performance. During the same time, the stocks of the Standard & Poor's 500, where Madoff supposedly did most of his trading, had dropped a weighted average of 37.7%.

Despite his gains, a growing number of investors began asking Madoff for their money back. In the first week of December 2008, according to the SEC suit, Madoff told a senior executive that there had been requests from clients for $7 billion in redemptions. Soon after, Madoff met with his two sons to tell them the advisory business was a fraud — "a giant Ponzi scheme,"— and was nearly bankrupt. The sons reportedly contacted their lawyer, who then alerted federal authorities to the fraud. Before being caught, Madoff was working on a scheme to dole out his funds' remaining $300 million to the firm's employees and his family members. For details of the complaint against Madoff see: http://www.sec.gov/litigation/complaints/2008/comp-madoff121108.pdf

Financial markets are cyclical in nature, ostensibly being driven by the aggregate psychology of the investing public[12]. History has repeatedly demonstrated that mass psychology manifests periodically as hysterias, driven by both fear and/or greed, which is invariably accompanied by deceitful and fraudulent behavior on the part of unethical parties participating in financial markets. The hope and optimism of rising markets develops into a period of exuberant euphoria, which is characterized by excessive acquisitiveness and blatant disregard for risk. Inevitably the 'boom' is followed by the 'bust' or descending market prices but not before predatory firms and individuals exploit the naiveté of investors who are typically overcome by avarice in the distribution stage of the market cycle. The declines are often dramatic, punctuated by periods of panic with culmination of the bear phrase occurring in an environment of acrimonious fear and despair amongst the investing public. In a setting where exploitation of investors by parties with malevolent intentions is prevalent, securities regulation can only operate under the conditions of the protection of self-interest and fear. Unfortunately, without the investing public having a general knowledge of what causes periods in the market where securities laws are typically transgressed, securities regulation is only effective in a reactive manner. Galbraith summarizes this point:

> What have not been sufficiently analyzed are the features common to these episodes, the things that signal their certain return and have thus the considerable practical value of aiding understanding and prediction. Regulation and more orthodox economic knowledge are not what protect the individual and the financial institution when euphoria returns.... There is protection only in a clear perception of

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[12] An abundance of research and analysis of stock market cycles is available through both commercial and academic sources: (Galbraith 1993: Graham 1973: Shefrin 2002: Herbst and Slinkman 1984: Bauman and Miller 1995)

> the characteristics common to these flights into what must be conservatively described as mass insanity. (Galbraith 1993: 1-2)

The crash of 1987 is a good case in point. After the crash in October 1987 the blame was directed towards several parties including the federal government for running such large deficits. Program trading and portfolio insurance were also condemned for their adverse effect on short-term market behavior. Diminutive mention was attributed to the orgy of speculation that led up to the fateful day of October 19th, 1987. The insider trading scandals involving Dennis Levine and Ivan Boesky which led to the indictment of Michael Milken of Drexel Burnham Lambert, were merely symptoms of the speculative bubble that had been forming during the mid 1980s. The markets had succumbed to the vices of fear and greed, subsequently demonstrating that existing regulations were not able to deter reckless and immoral behavior.

A more recent example has had a devastating effect on the global economy. Easy credit for the American housing market led to the inevitable financial bubble that like all other 'manias' was bound to crash. Initially, small regional lenders of residential mortgages began to experience an increase in defaults on sub-prime mortgages and non-traditional mortgages.[13] The problem began to mushroom when high risk mortgages that were being bundled, ostensibly to lower risk to the securities firms and their clients, began to collapse in value. These mortgage backed securities being held typically by investment banks and hedge funds were flaunted as being of 'investment

[13]Subprime mortgages are those lent to people with poor credit who might not otherwise qualify for loans. Non-traditional mortgages include those with adjustable interest rates, interest-only payments and other enticements.

grade' due to the diversification of the bundling process and risk management strategies utilizing derivative products. The entire process began to unravel, directly leading to the collapse (to date) of Countrywide Financial, Fannie Mae, Freddie Mac, Bear Stearns, AIG Insurance and Lehman Brothers.[14] The financial crisis presently enveloping Wall Street was allowed to get to unmanageable proportions due to the dubious sales practices of residential mortgage brokers and the faulty 'financial engineering' of mortgage backed securities that relied on the apparent sophistication and *expertise* of Wall Street money managers. As shall be demonstrated below, the alleged expertise of financial professionals resulted in what Alan Greenspan terms a 'once in a century' financial crisis. Once again the regulators were caught in a position of being reactive to the economic crisis as a result of unbridled avarice and short sightedness.

MacIntyre summarized the role of regulation in society as follows:

> The result: regulation is the best we can do... I see it as a minimal device that has been developed in order to compensate for the grave defects of a culture where the fabric of morality is being torn apart and where government cannot act in the ways that we would want it to if moral community were a real possibility. Regulation is a

[14] Fannie Mae and Freddie Mac were the largest American purchasers of mortgages. They were taken over by the U.S. federal government on Sept. 8, 2008, as the two mortgage giants struggled with deep losses and investors lost confidence. Bear Stearns and Lehman Brothers were investment banks that offered strategic advisory services for mergers, acquisitions, and other financial services for clients, such as the trading of derivatives, fixed income, foreign exchange, commodity, and equity securities. Bear Stearns was acquired by JPMorgan Chase in March 2008 after becoming illiquid due to loses in the Mortgage Backed Securities markets. Lehman Brothers suffered the same fate in September 2008 but was allowed to file for bankruptcy protection. On the same day Merrill Lynch was acquitted by Bank of America possibly averting yet another bankruptcy of a major Wall Street firm.

> necessary makeshift. Churchill once said that democracy is the worst form of government except for all others. Regulation, it seems to me, deserves a similar verdict. (MacIntyre 1980: 33)[15]

In Canada, the Provincial Acts and regulatory bodies require the registration of all individuals and firms who trade in securities as principles, agents or advisors. The Acts require that individuals desiring to trade in securities or to advise on the purchase or sale of securities must first be approved and registered in the proper capacity. The role and regulatory requirements of the individual advisor, referred to as the Investment Advisor (IA), in the Canadian securities industry will be now be examined.

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[15] MacIntyre's position that regulation is a 'necessary makeshift' implies that it does have an important role to fulfill in a just society. The relative strength of the Canadian banking system as compared to other countries affected by the current economic crisis (2009) aptly demonstrates that effective and efficient regulatory systems stabilize the financial environment to a greater degree than the *laissez faire* attitude adopted by American financial regulators.

2. The Investment Advisor in the Canadian Securities Industry.

The contractual relations that exist in the securities industry are diverse. The ethical question regarding transactions between buyer and seller turn on whether the exchange is fair and conducted with equal access to information and without duress, deception or fraud. The "broker" who executes the order of a client is expected to adhere to rules and regulations that derive from a contractual relationship and result in some form of compensation to the 'broker'. Two distinct roles are prominent when dealing with the investors: fiduciaries and agents. An agent is an individual or party who is engaged to act on behalf of another due to their specialized knowledge and skills. A broker who simply executes a client's order without providing advice but utilizing his skill and knowledge in the operation of trade execution is considered to be acting as an agent. On the other hand, a fully licensed Investment Advisor is part of a fiduciary relationship in which one party is the beneficiary of another party's service. "A fiduciary duty may be defined as the duty of a person in a position of trust to act solely in the interest of the beneficiary, without gaining any material benefit except with the knowledge and consent of this person" (Boatright 2008: 39). The CPHC holds that the IA is considered to be the trustee part of a fiduciary relationship:

> The IA owes a fiduciary duty to the client if the IA provides investment advice and recommendations to the client, and the client relies on such advice. The existence of such a fiduciary duty imposes a higher standard of care upon the IA than would be the case if the IA merely executed the client's orders without providing any advice. A fiduciary relationship requires the IA to act carefully, honestly and in good faith in dealings with the client, and not to take advantage in any way of the trust the client has placed in the IA. (CSI 2007: 1-4)

The fiduciary relationship has two elements: trust and confidence. When the IA provides advice with regard to a client's investments, the client assumes that proper care will be taken which requires the subordination of the IA's self-interest and an exemplary level of trust, due care and loyalty. Boatright summarizes the difference between an agent and a fiduciary:

> The duty of a broker who is acting as an agent in the sale of securities is narrower than that of a broker who is acting as a fiduciary in managing a client's portfolio. As an agent-broker, a person may not have an obligation to advise against an unwise trade...but a broker-advisor, acting as a fiduciary, would have such an obligation. The difference between the two cases is the scope of the engagement, that is, the range of services that the client seeks and the broker has agreed to supply. (Boatright 2008: 42)

Conflict of interest, which is a violation of the expected level of loyalty in a fiduciary relationship, is difficult to avoid in the securities industry since conflict plays an integral role in the economic nature of the business. Participants in the free market system are constantly presented with choices amongst the competing interests of others; conflicts of interest are built into the structure of our financial institutions. "The inhabitants of Wall Street are motivated primarily by self-interest and can be induced to serve any master only within limits. The challenge, therefore, is not to prevent conflicts of interest in financial services but to manage them in a workable financial system" (Boatright 2008: 51). In order to facilitate this challenge, IAs are subjected to a comprehensive process of registration and regulation in the various Canadian jurisdictions.

The Investment Advisor is an individual registered to advise on a full range of equity and fixed income securities products. Additional proficiency requirements are needed to solicit orders or to advise in the trading of options, commodity futures and commodity futures options. The term "Investment Advisor" is not an official registration category under most provincial legislation; the official name given to individuals with this standing is Registered Representative (RR). IAs have broadly based knowledge, which allows them to provide advice on various investment products and financial strategies. Competent knowledge of the functions of capital markets, taxation issues, market cycles and the characteristics of sector performance places the IA in a position that allows him to do more than merely execute client orders.

Prospective Investment Advisors must complete the Canadian Securities Course (CSC) and Conduct and Practices Handbook Course (CPH), which are administered by CSI Global Education Inc. (CSI). Subsequent to the approval as a representative, the registrant must complete a ninety-day in-house training program with a Member Firm. After training, the RR is subject to a six-month period of strict supervision by his or her supervisor who must have at least two years experience in a registered capacity with a member of IIROC. In addition to these proficiency requirements RRs must complete the Wealth Management Essentials Course (WME), which combines elements of Financial Planning and Investment Management with content on wealth management applications. The course is designed to better prepare the RR to provide clients with comprehensive, integrated financial advice. In order to maintain valid status as a RR, IIROC mandates that educational development be taken on a continual basis. These courses, which are provided by CSI, are designed to keep Investment Advisors current with investment knowledge, expand their knowledge base and familiarize them with industry developments. The continuing education program (CE) operates on three-year cycles. Individuals registered to do retail business and give advice must complete a Compliance course and a Professional Development course during each three-year cycle.

The Canadian Securities Course (CSC) is the comprehensive introductory course for individuals entering the securities industry in Canada. The course teaches students a wide range of economic and financial topics including macroeconomic and political factors effecting financial markets along with how to interpret financial statements and analyze corporate, industry and market performance. Potential RRs become knowledgeable with the financial instruments available to the investing public and learn the various aspects of financial planning such as goal setting, investing and taxation issues.

The Conduct and Practices Handbook Course (CPH) prepares the prospective IA through the impartation of the regulations, practices and ethics that will serve as a guide throughout their career. The examination consists of 120 multiple choice questions and the course content is allocated approximately as follows: Special Transactions and Products 14%, The Regulatory Environment 25%, Ethics, Ethical Codes, and Standards of Conduct 25% and Dealing with Clients Accounts 36%.

Successful candidates will have a comprehensive understanding of the Canadian regulatory environment and the provincial securities regulations. In addition candidates are expected to apply their knowledge in dealing with clients appropriately by constantly applying the standards of conduct and code of ethics of the industry (CSI

2007: 1-4 - 1-19). As part of the CPH, the ethics component explains ethical theories and the importance of values in investment decision-making. Students are taught to understand how their values influence the decisions they make and gives them the knowledge required to make ethical decisions that go beyond the rules contained in the CPH. The ethics component is presented in the *Conduct and Practices Handbook Course; Applied Ethics in the Securities Industry* (CSI 2004). Further education is provided in ethics through the continuing education modules, which can be applied to meet the requirements for the Fellow of CSI designation.[16]

Currently there are approximately twenty two thousand registrants falling within the jurisdiction of IIROC. Table 2.1 summarizes the complaints year to date (2008) received by the Complaints and Settlement Reporting System (ComSet) as of July 31 2008.[17] Figure 2.1 indicates the history of complaints processed by ComSet since 1997.

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[16] The FCSI designation is a highly respected accreditation in the financial services industry. It recognizes individuals who bring a rare combination of education, ethical training and experience to their firm and their clients' businesses.

[17] ComSet (Complaints and Settlement Reporting System) is a system that enables reporting of client complaints and disciplinary matters by dealer Members to IIROC. With ComSet, staff can identify new and emerging compliance or regulatory issues, as well as patterns and trends in the industry, at the national, regional and firm level that help to direct focus on potential problems, areas that require enhanced compliance review, or events that warrant enforcement action.
(see: http://www.iiroc.ca/English/Enforcement/Statistics/Pages/Complaints.aspx)

Table 2.1

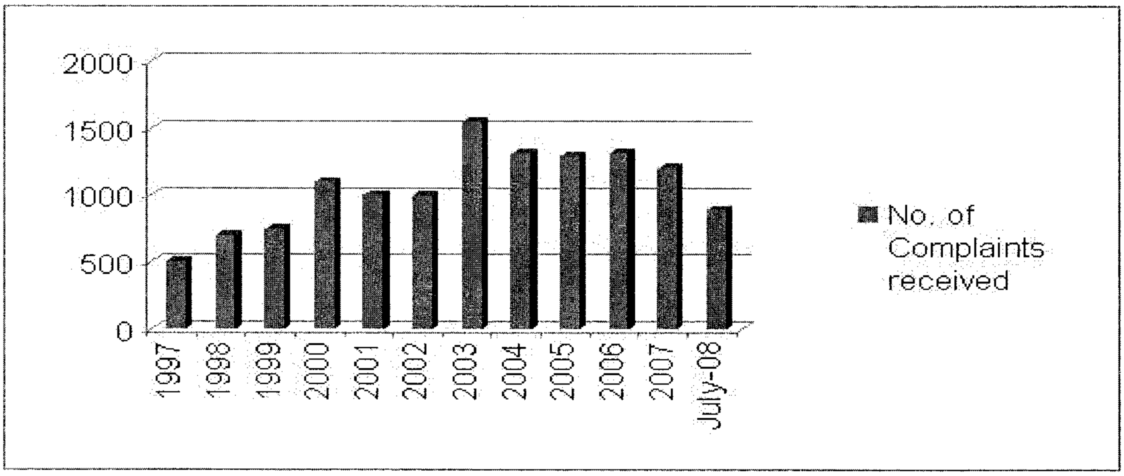
Nature of Complaints Received by ComSet.

Nature of Complaint	899
Unauthorized or discretionary trading	248
Unsuitable Investments	122
Misrepresentation	83
Service Issues	33
Violation of UMIR	7
Other	406

Source: ComSet: http://www.iiroc.ca/English/Enforcement/Statistics/Pages/Comset.aspx

Figure 2.1

Complaints Received by ComSet (1997-2008)



Source: ComSet: http://www.iiroc.ca/English/Enforcement/Statistics/Pages/Comset.aspx

Considering the number of registrants in the Canadian securities industry an annualized complaint rate of approximately 7%[18] suggests that violations of securities

[18] Complaint Ratio: Annualized # of Complaints/ # of Registrants : 1540/22000 = 7%.

regulations, ergo transgressions in ethical conduct, warrant the attention of Industry Regulators and the management of Member Firms.

Aside from blatant deception and fraudulent practices in the securities industry, COMSET data indicates conflicts of interest between the IA and the client and/or Member firm is a problem that frequently leads to violation of the IIROC rules and regulations. The conflict of interest inherent in the IA/client relationship stems from the fact that most IAs, who are not considered portfolio managers and compensated through an account management fee structure, are compensated by a commission fee that is directly correlated to the frequency of trading as well as the type of investment related to the client investment objectives. Two frequent regulatory infractions that are based on conflicts of interest according to COMSET data are discretionary trading and unsuitable investments decisions being made on behalf of the client.

Excessive or unauthorized trading executed for the prime purpose of generating commissions is referred to as "churning". Churning is difficult to define since differing investment objectives among clients directly result in different levels of trading frequency. Conservative income oriented clients are prone to generate significantly less trading activity than a client whose investment objectives are highly speculative and growth oriented, which invariably are investments with a short-term time horizon and thereby generate a higher frequency of trading activity. A commonly used indicator of churning utilized by compliance departments in the industry is the annualized turnover ratio.[19] Although this indicator does not take into account the nature of the account's investment objectives, when compared with the clients stated objectives, anomalies and discrepancies in trading activity can be easily detected.

Suitability is a key compliance issue that deals with the conflicts of interest and other abusive practices between the client and the IA. The cardinal imperative in the investment industry is the 'Know Your Client' rule (KYC). The KYC rule relates to IIROC Standard A, Duty of Care, and is the cornerstone of all dealings with clients (CSI 2007: 4-3). IAs must make a conscientious effort to familiarize themselves with the vital financial and personal circumstances, and most notably, the investment objectives of their client. Rules 1300 and 29 of the IIROC Dealer Member Rules summarize Standard A of IIROC's Standards of Conduct. The CFA Institute Standards of Practice Handbook, which is considered the authority for all other securities industry codes of conduct, states the following:

> One of the most important factors to be considered in matching appropriateness and suitability of an investment with a client's needs and circumstances is measuring that client's tolerance for risk. The investment professional must consider the possibilities of rapidly changing investment environments and their likely impact on a client's holdings, both individual securities and the collective portfolio. The risk of many investment strategies can and should be analyzed and quantified in advance. (CFA Institute 2006: 70)

Rule 1300.1(q) of IIROC Dealer Member Rules reflects this standard: "Each Dealer Member… shall use due diligence to ensure that the recommendation is suitable for

[19] Annualized Turnover Ratio = P/E x 365/D: where P = total cost of purchases made during the period, E = the average equity in the account during the same period and D = the number of days in the selected period.

(the) customer based on factors including the customer's financial situation, investment knowledge, investment objectives and risk tolerance"[20]

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[20] 29.1. BUSINESS CONDUCT
Dealer Members and each partner, director, officer, sales manager, branch manager, assistant or co-branch manager, registered representative, investment representative and employee of a Dealer Member (i) shall observe high standards of ethics and conduct in the transaction of their business, (ii) shall not engage in any business conduct or practice which is unbecoming or detrimental to the public interest, and (iii) shall be of such character and business repute and have such experience and training as is consistent with the standards described in clauses (i) and (ii) or as may be prescribed by the Board of Directors.

For the purposes of disciplinary proceedings pursuant to the Rules, each Dealer Member shall be responsible for all acts and omissions of each partner, director, officer, sales manager, branch manager, assistant or co-branch manager, registered representative, investment representative and employee of a Dealer Member; and each of the foregoing individuals shall comply with all Rules required to be complied with by the Dealer Member.

[20] 1300.1 IDENTITY and CREDIT WORTHINESS
(a) Each Dealer Member shall use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted.

(b) When opening an initial account for a corporation or similar entity, the Dealer Member shall:

(i) ascertain the identity of any natural person who is the beneficial owner, directly or indirectly, of more than 10% of the corporation or similar entity, including the name, address, citizenship, occupation and employer of each such beneficial owner, and whether any such beneficial owner is an insider or controlling shareholder of a publicly traded corporation or similar entity; and

(ii) as soon as is practicable after opening the account, and in any case no later than six months after the opening of the account, verify the identity of each individual beneficial owner identified in (i) using such methods as enable the Dealer Member to form a reasonable belief that it knows the true identity of each individual and that are in compliance with any applicable legislation and regulations of the Government of Canada or any province.

Determining the client's tolerance for risk is the most important factor to consider when conforming investment vehicles to client objectives. Both churning and unsuitability of investments are in most cases a direct result of a conflict between the client's objectives and the IAs self-interest. Both actions have the risk/reward factor as a basis for potential complaints being made to a regulatory body about the IA. When violations of regulatory standards of conduct occur, the IA is usually acting out of self-interest at the expense of the client. Whether the illicit action is performed to generate higher commissions or to otherwise advance the IAs standing amongst his peers and/or managers, or even in the eyes of the client himself, the client account is exposed to a higher degree of portfolio risk in order to appease the IAs self-interest. The adage 'the greater the risk, the greater the return' applies to the IA as well to his clientele. In order to achieve a higher degree of compensation or recognition the IA risks his reputation and possibly his career by succumbing to delinquent behavior. Although the objectionable risk level of financial speculation is occurring in the unsuspecting client's account, the IA, is at the same time, speculating with his future standing in the securities industry with the hopes of securing some sort of material benefit for himself.

According to Prentice (2007: 13-24) financial professionals commit acts deemed to be unethical "if they do not keep their ethical antennae up and guard against errors in judgment that are commonly made—errors that, indeed, people are often predisposed to make." Prentice goes on to describe many of the cognitive biases that can create ethical traps, which include:

- Obedience to Authority. Frequently the employer's pressure to make sales quotas and other measurements of productivity are too great for one to ignore or surmount.
- Conformity Bias. Conformity bias often compels people to align their judgments with the judgments of their reference group. If the environment in which the IA is performing his duties is rife with unethical behavior, the IA will succumb to peer pressure with the classic excuse when caught that 'everyone else is doing it'.
- Incrementalism. Many Financial professionals unconsciously lower their standards, sliding down a slippery slope in tandem with their peers.
- Groupthink. When the IA loses his independence and conforms to the thinking of a cohesive group, poor decisions are often made, many with unethical implications.
- Over-optimism/Overconfidence. "It can't happen to me!" Irrational optimism can lead to systemic errors in decision-making, which often lead to unethical actions being committed to mask the unanticipated consequences of such misplaced confidence.
- Self-Serving Bias. Advisors often gather and process information in such a manner as to advance their perceived self-interest and to support their pre-existing views. These processes can easily undermine the credibility, fairness of the investment strategies that the IA recommends to his clients.

The biases cited above share a commonality; each is as a product of manipulative social relations, which are endemic in Western culture. It will be established below that this condition is illustrative of the emotivist culture in which Western society finds itself.

The securities industry's claim for self-regulation is justified by the industry's commitment to the values of integrity, honesty, trust and competency. Clearly, for the securities industry to function efficiently and ethically, a strong sense of values is expected from all participants. CSI stresses that these commonly held values are essential to prevent the industry from being morally compromised. The CSI defines 'values' as follows:

> Values do have common characteristics. These characteristics are:
>
> - Values are beliefs; they are not facts.
> - Values are long lasting; they are not fleeting. But this doesn't mean values are fixed and unchangeable.
> - Values provide guidance with respect to two aspects of our lives: a) Our personal and corporate behaviour: b) Our personal and corporate goals. (CSI 2004: 1-8):

The distinction is made between means values and ends values. The former being characterized as ambition, openness, or competence that we employ to achieve our end values or goals. The ends towards which we are striving are defined as ends values such as a sense of accomplishment, service to people, security, a world at peace and social recognition. The concept of a Unified Value System is presented which seeks to impart to IAs that the means and the ends have to mutually reinforce and support each other if trust is to be expected to prevail in the functioning of the market place. It is stressed that IAs understand the nature of values, their degree of resilience and what role they play in guiding the decision making process which is vital to the securities industry. This understanding is referred to as Value Clarification (CSI 2004: 1-9). How these values are derived in contemporary society is the essence of the moral morass that MacIntyre's believes plague a liberal individualistic society.

It would be difficult to discuss the attributes of the IA without making a reference to the term 'professional ethics' and the questions surrounding what constitutes the term profession in general. Boatright states that three criterion for being designated as a professional must be met:

- A specialized body of knowledge. Professionals must possess a highly developed technical body of knowledge.
- A high degree of organization and self-regulation. This organization must adhere to a standards of conduct and practice to retain its professional standing.
- A commitment to public service. The specialized knowledge of the professional must serve some important social need. (Boatright 2008: 43)

Clearly, the IA meets this criterion.

While this paper is not focused on whether 'professional ethics' embodies a unique level of ethical responsibility, the term 'professional' exemplifies the characteristics of the milieu of liberal individualism that MacIntyre claims is besieging western society. In order to apply MacIntyre's tripartite notion of virtue ethics to the role of the IA, MacIntyre's perspective of how the remnants of a moral history which has become the basis of contemporary liberal society has contributed to the tendency to behave as if emotivism were a tenable moral philosophy. This consequence of the failure of the moral philosophy developed during the Enlightenment is reflected in contemporary culture, both at the individual and institutional levels of the social order. The financial and economic institutions in Western society have certainly not been immune from the affects of the current moral morass. Due to the enormous influence material well-being has on socialization in liberalist society, it is perhaps the functioning of economic/financial institutions that best reveal the inadequacy of the moral philosophies of the Enlightenment.

3. MacIntyre's Critique of Modernity

After Virtue begins with a thought experiment, where MacIntyre asks the reader to imagine that the natural sciences have been struck by a calamity: a series of environmental disasters are being blamed on the scientific community by the general public. An anti-science political organization takes over and attempts to rid society of all vestiges of scientific thought. The outcome of this upheaval has left society in an intellectual void. Upon a subsequent uprising and ensuing revolution, an attempt is made to revive scientific knowledge. Using only remnants and shards of information available to them: "Everything that they do and say conforms to certain canons of consistency and coherence and those contexts which would be needed to make sense of what they are doing have been lost, perhaps irretrievably" (MacIntyre 1984: 1). This new civilization would use terms in ways that resemble their previous usage, but the beliefs which grounded those partially retrieved scientific concepts would not be available to them. According to MacIntyre, this hypothetical world is analogous to the moral morass in which contemporary society finds itself immersed. '[I]n the actual world which we inhabit the language of morality is in the same state of grave disorder as the language of natural science in the imaginary world" (MacIntyre 1984: 2). MacIntyre claims that philosophical analysis will not help us identify the current situation and that the problem which confronts society can only be indentified if we turn to philosophical history. The dominant forms of analysis that have been used since the Enlightenment will no longer suffice to solve the problem; in fact these philosophical models such as deontology and utilitarianism are part of the problem.

It is MacIntyre's observation that contemporary moral discourse is ensnared in a series of interminable disagreements that demonstrate no rational course of securing moral accord in society. He cites the current debates concerning abortion, just war, health care and education, that are becoming increasingly acerbic and divisive. The forums for discourse are now global and instantaneous, exacerbating the unsolved ethical problems that challenge society. MacIntyre identifies three important features that embody contemporary debate:

- Conceptual incommensurability. While the conclusions follow logically from premises held by both debating parties, the premises themselves "are such that we possess no rational way of weighing the claims of one as against the other" (MacIntyre 1984, 8). Neither party can find good reasons to support their own position or to agree with the position taken by the other side. In the end the debate becomes increasingly aggressive, yet, futile.
- We purport to make impersonal rational arguments and as such are usually presented in a mode appropriate to that impersonality." (MacIntyre 1984, 8). In our arguments we appeal to supposedly independent criteria: even though the acceptance of the presented concept is what we personally desire, we appeal to a sense of duty or to a plea for the advancement of an anticipated universally beneficial consequence to make our case.
- Our moral arguments have no historical context. Like the remnants used by the new civilization in MacIntyre's thought experiment, the premises used in our arguments have diverse historical origins that have been partially abstracted and taken out of context over time.

MacIntyre considers the argument that all moral argument may be interminable: that what appears to be a contingent feature in contemporary culture is a necessary feature of all cultures' dialogues concerning morality. To address this point of contention MacIntyre must refute the notion of emotivism which is a doctrine claiming that all moral disagreement is rationally interminable. MacIntyre states that "emotivism is the doctrine that all evaluative judgments and more specifically all moral judgments are *nothing but* expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character"(MacIntyre 1984: 11-12). MacIntyre believes emotivism fails for three reasons:

- Emotivism fails to identify or characterize the feelings and attitudes that constitute an account of moral utterance. What kind of feeling or attitudes? If the reply is a feeling or attitude of approval, then, what kind of approval? What constitutes moral approval? All emotivist based attempts to answer this question becomes entangled in a circular argument.
- Emotivism attempts to approach two kinds of expressions, which derive their distinctive function in our language from the contrasts and differences between them, as being equivalent in meaning. As an example, an expression of personal preference is very specific to what context these preferences are articulated, while on the other hand, moral expressions are independent of context. Therefore there can be no equivalent meaning assigned to them. Moral judgments, unlike statements of inclination or approval, are impersonal and contain implicit appeal to objective standards.
- The emotivist theory purports to be a theory about the meaning of sentences; but the expression of feeling or attitude is characteristically a function not of the meaning of sentences, but of their use on particular occasions. Expressing feelings is a matter of the *use* of language, not of its meaning.

Emotivism is perceived by MacIntyre as an empirical thesis that emerged as a response to social conditions and has persisted in contemporary liberalism.

Ballard claims in *Understanding MacIntyre* that the emotivist will claim feelings of approval when accepting a moral statement but when pressed to explain his reasons for acceptance he is left lacking an adequate response. "The emotivist has lost the defining difference needed to distinguish moral approval from, say, ice-cream approval" (Ballard 2000: 5). However, MacIntyre maintains that the central assertion of emotivism, "that there are and can be *no* valid rational justification for any claims that rational and impersonal moral standards exist and hence that there are no such standards" (MacIntyre 1984: 19), has become embodied in our culture: citizens of Western society now think, act and talk as if emotivism were true.

MacIntyre's critique of modernity necessitates a critique of the modern self: how members of western culture assess their choices, their values and their roles in society. The current view of the self is best encapsulated by modern liberalism. The rise of liberal views about the individual in society has complimented the tendency to believe and behave as if emotivism were true. MacIntyre situates his critique in the real world:

> A moral philosophy – and emotivism is no exception – characteristically presupposes a sociology. For every moral philosophy offers explicitly or implicitly at least a partial conceptual analysis of the relationship of an agent to his or her reasons, motives, intentions and actions, and in so doing generally presupposes some claim that these concepts are embodied or at least can be in the real world. (MacIntyre 1984: 23)

MacIntyre considers the infusion of emotivism into western culture as the result of a breakdown of a previously better ordered moral world. The failure to sustain impersonal objective standards to support judgments, actions and policies led to a tacit acceptance of emotivism. The key to the social content of emotivism "is the fact that emotivism entails the obliteration of any genuine distinction between manipulative and non-manipulative social relations" (MacIntyre 1984: 23). This fact has dire consequences for society since individuals and institutions now rely on the authority of persuasion, treating other agents as means to their desired end, in lieu of necessitating adherence to principles of normative rationality. An emotivist social world would be seen as “nothing but a meeting place for individual wills…who interpret reality as a series of opportunities for their own enjoyment and for whom the last enemy is boredom” (MacIntyre 1984: 25). The market place is one such environment that embodies all of the trappings and manipulations of an emotivist culture. However, before the social roles and stock *characters* that exemplify emotivist culture are further identified and examined in the context of the securities industry, it is necessary to understand why MacIntyre believes the Enlightenment project of justifying morality had to fail. Recognizing why the various individual projects failed explains how the social institutions of today sanction the continued moral deterioration in liberalist culture through the acquiescence to emotivism.

MacIntyre claims that all philosophical arguments of the eighteenth and nineteenth centuries were bound to fail because the philosophers presenting their arguments were “inheritors of a very specific and particular scheme of moral beliefs, a scheme whose internal incoherence ensured the failure of the common philosophical project from the outset” (MacIntyre 1984: 51). MacIntyre asserts that the philosophers of the Enlightenment all had shared beliefs about what constituted morality, arising from their shared Christian past. They also agreed on what would constitute a shared rational justification of morality: it would be based on some feature(s) of human nature, and on rules that a being with this nature could accept. The moral scheme inherited by these Enlightenment thinkers had both theistic and classical elements, embodied in a three part scheme. Ethics was a way in which human beings could bridge the gap between what they are and what they should be:

> We thus have a threefold scheme in which human-nature-as-it-happens-to-be (human nature in an untutored state) is initially discrepant and discordant with the precepts of ethics and needs to be transformed by the instruction of practical reason and experience into human-nature-as-it-could-be-if-it-realized-its-*telos*. Each of these three elements of the scheme – the conception of untutored nature, the conception of the precepts of rational ethics and the conception of human-nature-as-it-could-be-if-it-realized-its-*telos* – requires reference to the other two if its status and function are to be intelligible. (MacIntyre 1984: 53)

In order for the three part scheme to be intelligible it is important to note that each part required the other two. MacIntyre believes that the reason the Enlightenment project failed is because the Enlightenment thinkers rejected one element of the three part scheme that they had inherited, namely "any teleological view of human nature, any view of man as having an essence which defines his true end" (MacIntyre 1984: 54). As a consequence, the relationship between the other two elements becomes unclear; in addition, the "injunctions of morality, thus understood, are likely to ones that human nature, thus understood, has strong tendencies to disobey" (ibid., 55).

The consequence of the loss of the teleological element can be captured in the famous claim that you can't derive an 'ought' from an 'is': meaning that normative claims cannot be derived from factual referents. Moral philosophers of the Enlightenment came to accept that "no valid argument can move from entirely factual premises to any moral or evaluative conclusion" (MacIntyre 1984: 56). MacIntyre believes that this argument only holds when the teleological element of morality is omitted from moral judgment. This principle held by Hume and Kant amongst other philosophers of the eighteenth century demonstrates how the meaning of different expressions and terms can change from one historical period to the next. MacIntyre uses the concept of functionality to make his case. Functional concepts such as 'watch' or 'farmer' cannot be properly comprehended without the notion of working as they are intended to. The function of a watch is to keep accurate time; therefore, the concept of watch cannot be separated from the notion of a 'good watch'. An object that does not function as expected cannot be assigned a name that implies that it deliberately or inadvertently carries out its intended function. The same can be said of the term 'farmer' which suggests an individual who successfully carries out the function of producing a bountiful harvest on an ongoing basis:

> Such concepts are functional concepts; that is to say, we define both 'watch' and 'farmer' in terms of the purpose of function which a watch or a farmer are characteristically expected to serve. It follows that the concept of watch cannot be defined independently of the concept of a good watch nor the concept of a farmer independently of that of a good farmer. (MacIntyre 1984: 58)

MacIntyre asserts that if the 'can't derive an 'ought' conclusion from an 'is' premise' argument is to remain valid, then functional concepts must be excluded from its scope. Moral arguments in the Aristotelian tradition involve man's essential nature as being purposeful or functional; this function entails the concept of a 'good man'. When the teleological element is excluded from arguments in regard to morality it becomes impossible to treat moral judgments as factual statements. The thinkers that excluded the teleological element from their moral arguments believed that they had proven the autonomy of man and thus the concept of the individual began to emerge. It is in this social milieu, that of liberal individualism, that the emotivist self began to predominate over Western morality and social structure.

MacIntyre claims that the Enlightenment failed for two reasons:

- The rise of individualism could not provide a framework to make claims about human nature since the focus of attention was the sovereignty of the individuals' moral authority.
- Since the new morality was deprived of their original context, rules of morality became nothing more than expressions of individual will and desire.

The Utilitarian thesis of Bentham (Bowring 1962) attempted to derive morality from the basic human psychology of attraction to pleasure and aversion to pain. From this position he endeavored to connect what would motivate the individual to an account of the common good; the moral agent was to choose the action that would produce the greatest amount of happiness for the greatest number of people. This may be axiomatic to the self-enlightened but the question remained whether the unenlightened citizen could also see fit to pursue happiness for the greatest number. John Stuart Mill, who embraced Bentham's thesis, tried to correct this apparent weakness in Bentham's argument by expanding the concept of happiness to include both the higher and lower pleasures (Mill 1991: 140-143):

> Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification....
> Utilitarianism, therefore, could only attain its end by the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit. (Mill 1991: 138,142)

However, what the distinction between the higher and lower pleasures demonstrates is that " the notion of human happiness is not a unitary, simple notion and cannot provide us with a criterion for making our key choices...For different pleasures and different happinesses are to a large degree incommensurable" (MacIntyre 1984: 63-64).

MacIntyre's criticisms of the moral ethical systems inherited from the Enlightenment included deontological moral philosophy as exemplified by the works of Kant (1981). Kant's Categorical Imperative is an attempt to create a rational universal standard by which ethical judgments could be evaluated. MacIntyre asserts that there is a fundamental flaw in Kant's system. He suggests that, while the first formulation of the Categorical Imperative (the universalization formulation) has no distinctive moral content since the maxims that pass the test can be both immoral and trivially non-moral, the second formulation (the means-end formulation), although it does have a moral content, is not one that is very strictly defined:

> If the rules of morality are rational, they must be the same for all rational beings, in just the way that the rules of arithmetic are; and if the rules of morality are binding on all rational beings, then the contingent ability of such beings to carry them out must be unimportant – what is important is their will to carry them out. (MacIntyre 1984: 43-44)

MacIntyre argues that such a rational will cannot motivate the individual to perform the rationally just action in the face of emotional or social pressure to act contrary to such a sense of duty:

> What Kant means by treating someone as an end rather than a means seems to be as follows...I may propose a course of action to someone either by offering him reasons for so acting or by trying to influence him in non-rational ways. If I do the former I treat him as a rational will, worthy of the same respect as is due to myself, for in offering him reasons I offer him an impersonal consideration for him to evaluate. What makes a reason a good reason has nothing to do with who utters it on a given occasion; and until an agent has decided for himself whether a reason is a good reason or not he has no reason to act. By contrast an attempt at

> non-rational suasion embodies an attempt to make an agent a mere instrument of *my* will, without regard for *his* rationality. (MacIntyre 1984: 46)

The concept of human rights is a specific subset of deontological ethics. MacIntyre uses Gewirth's (1978) thesis on human rights to demonstrate. According to MacIntyre, what is central to Gerwirth's claim is that "Every rational agent has to recognize a certain measure of freedom and well-being as prerequisites for his exercise of rational agency. Therefore each agent must will, if he is to will at all, that he possess that measure of these goods" (MacIntyre 1984: 66). MacIntyre does not have a problem with Gewirth's argument up to this point but then asserts that Gewirth argues that "anyone who holds that the prerequisites for his exercise of rational agency are necessary goods is logically committed to holding also that he has a right to these goods" (MacIntyre 1984: 66-67). MacIntyre claims that there is no obvious connection between the concept of a need and the concept of a right. He also asserts that far from being a universal and ageless attribute of the human condition, rights are highly contextual and particular, coming "into existence at particular historical periods under particular social circumstances" (MacIntyre 1984: 67). He goes on to state that the existence of a specific type of social institution to provide these rights must exist and in the lack thereof "the making of a claim to a right would be like presenting a check for payment in a social order that lacked the institution of money" (MacIntyre 1984: 67).

Horvath summarized MacIntyre's position:

> In an individualistic society, self-centered demands necessarily go unmet when no one accepts responsibility for meeting those demands. Social rights exist only when socially enforced...The notion of rights has become a minimalist ethic in American society. The failure of such claims can be traced to the same reason

> Kant's formalism fails: even a rational presentation of the logic of such claims cannot instill the desire to honor such claims. Reason alone does not motivate most people. At best, it indicates what "should" be done; at worst, it serves as a rationalization or mask for self-serving behaviour. (Horvath 1995: 508)

Even though the attempts of the Utilitarian and Kantian projects failed, most people and social institutions act as if these attempts were successful, not conscious of the fact that they have yielded to emotivism. This is the consequence of the inherited three element medieval model progressing through history in a fragmented state; missing the essential teleological element. Like the imaginary society that MacIntyre uses to contextualize the current morass, the meaning of sentences and the use of sentences can be and is often acutely divergent. "So both formalism and utilitarianism not only fail to provide a useful moral guidance by themselves, they fail even more by providing a veneer of morality which actually masks prerational preferences" (Horvath 1995: 510). The emotivist dilemma is stated concisely by MacIntyre:

> Seeking to protect the autonomy that we have learned to prize, we aspire not to be manipulated by others; seeking to incarnate our own principles and stand-point in the world of practice, we find no way open to us to do so except by directing towards others those very manipulative modes of relationship which each of us aspires to resist in our own case. (MacIntyre 1984: 68)

An outstanding example of the dilemma that occurs in an emotivist culture is the interaction between the utilitarian model of morality and the deontological notion of morality in actual practice. Investment advisors are faced with the consequences of the recognition of both models on a continual basis. When Management of a securities firm formulates its business plan and implements the ensuing strategy, it is in all likelihood based on a utilitarian calculus that emphasizes effectiveness.[21] This effectiveness manifests itself as a drive towards maximized profitability and optimal productivity of the workforce, which entails to a large degree the sales force as represented by the Investment Advisor.[22] The IA is faced with this pressure from Management on a daily basis. Meeting sales quotas, participating in branch office or national sales contests and the Management desire for the achievement of performance measurements delineate clearly what the desired ends are to be for both the IA and the firm:

> Since utilitarianism is consequentialist, it is logical for managers to concern themselves with effectiveness. 'Getting the job done' and 'the bottom line' reflect ends which must be accomplished to have any utility at all…MacIntyre finds that business ethics, as it shares the weakness of utilitarian ethics, actually facilitates an emotivist denial of the ability to make moral claims. But businesses have found a substitute ethical base in the concept of effectiveness. As long as one is effective at accomplishing a goal, one is good. The only external; standard which appears to relate to this 'ethic of effectiveness' approach is that of the market. What one earns (either individually or corporately, is the measure of success. (Horvath 1995: 514)

At the same time as being expected to adhere to the directives of his employer, the IA is bound by the deontological based code of conduct and practices described previously. Responsibilities and obligations to various parties including primarily the

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[21] Proponents of utilitarianism would argue that MacIntyre's identification of utility with effectiveness is problematic. It can be argued that when consequentialism is associated with or identified by only an obsession with the bottom line, the philosophical notion of utilitarianism is being misinterpreted. MacIntyre takes no consideration of Smith's impartial spectator and notion of sympathy or Mill's higher/nobler pleasures. (Smith 1937, 1982: Mill 1991)

[22] The link that MacIntyre makes between utility and effectiveness can be criticized since concern with results alone does not accurately represent the goals of utilitarianism. There is nothing in utilitarianism that forces one to be solely concerned by effectiveness. It can be argued that an obsession with effectiveness is a misrepresentation of utilitarianism.

client, and to a lesser degree the firm and the community, obfuscate the moral foundations on which the IA is expected to conduct his vocation. Not only is it exceedingly difficult to pursue his career in a moral fashion due to the veneer provided by emotivism, but the moral projects that are responsible for providing this veneer are diametrically opposed:

> In essence, therefore, individuals in financial organizations are faced with two incompatible notions of rational behavior—two moral philosophies. One, neoclassical economic rationality, provides the foundation for their early educational experience and is reinforced through their acculturation into the financial services industry. The other, a code of ethics that espouses some rationality premise other than that of neoclassical economics, may be touched on in their early educational experience but generally appears to play little part in the industry. (Dobson 2003: 30)

The failure of the Enlightenment and subsequent emotivist culture has placed the IA in an unenviable position of complying with corporate directives based on utility while at the same time adhering to a duty based code of conduct that emphasizes the Unified Value System described in the previous section.

MacIntyre argues that in all cultures stock *characters* inhabit "a very special type of social role which places a certain kind of moral constraint on the personality of those who inhabit them in a way in which many other social roles do not…They are so to speak, the moral representatives of their culture and they are so because of the way in which moral and metaphysical ideas and theories assume through them an embodied existence in the social world" (MacIntyre 1984: 27-28). These *characters* are the *rich aesthete*, the *manager* and the *therapist*. The role *characters* play in society does not require universal assent: in fact it is being the focal point of disagreement within the culture that defines the importance of the *character*.

The three *characters* MacIntyre assigns to contemporary Western culture exemplify the collapse of the distinction between manipulative and non-manipulative social relationships. The Investment Advisor is in the atypical position of inhabiting all three of the positions, partitioning his life between them. His predominant actions are that of the *manager*, but he often finds himself aspiring to assume the *character* of the *rich aesthete* or subjecting himself to the portrayal of the *therapist* to quell client's concerns in times of financial turbulence. While the different *characters* share sets of fictions the *manager* employs a set of fictions which are peculiar to him. The *manager* claims to possess systematic effectiveness in controlling certain aspects of social reality. The purported effectiveness is presented as morally neutral: what is important is the achievement of the desired goals, not whether the goals themselves are morally sound. The *manager*'s claim of authority is based on the perceived ability to produce certain results. If anticipated results are not met, their claimed expertise may be nothing more than a moral fiction, because "the kind of knowledge which would be required to sustain it does not exist" (MacIntyre 1984: 75). MacIntyre claims that perhaps the most culturally powerful moral fiction "is embodied in the claims to effectiveness and hence to authority made by that central *character* of the modern social drama, the bureaucratic *manager*. To a disturbing extent our morality will be disclosed as a theatre of illusions" (MacIntyre 1984: 76-77).

The *manager* makes two claims to justify his authority. First he claims that there exists a domain of morally neutral fact about which the *manager* is regarded as possessing exclusive expertise. Secondly, that expertise in the domain allows the *manager* to make law-like generalizations that can be applied to particular cases. In order to comprehend the claim of expertise the notion of what constitutes a fact must be examined.

Chapter 7 of *After Virtue* presents a comprehensive explanation of how the *manager* and other emotivist *characters* developed, beginning in the seventeenth and eighteenth centuries. The Enlightenment ushered in the advent of a mechanistic, value free, social science coincident with the Protestant and Jansenist refutation of Catholic teleological morality and the abandonment of the Aristotelian paradigm. Empiricism co-existed with the proliferation of the natural science:

> The empiricist concept was a cultural invention of the late seventeenth and eighteenth centuries. It is at first sight paradoxical that it should have arisen in the same culture in which natural science arose. For it was invented as a panacea for the epistemological crisis of the seventeenth century; it was intended as a device to close the gap between *seems* and *is*, between appearance and reality....
> By contrast the natural scientific concepts of observation and experiment were intended to enlarge the distance between *seems* and *is*...It redraws the lines between *seems* and *is*; it creates new forms of distinction between both appearance and reality and illusion and reality. (MacIntyre 1984: 80)

The result of these developments was that the notions of intention, purpose and reason became detached from the notions of good or virtue. It is MacIntyre's opinion that in the seventeenth and eighteenth centuries human nature ceases to be a "functional concept" (MacIntyre 1984: 53-58, 81-83) and the resultant "explanation of action is increasingly held to be a matter of laying bare the physiological and physical mechanisms which underlie actions (ibid., 82). This in turn led to the development of injunctive generalizations. Associated with these generalizations was the requirement of antecedent necessary and/or sufficient conditions to explain the cause of action. It is during this period that the "ideal of mechanical explanation was transferred from physics to the understanding of human behavior..." (ibid., 83). It was in this environment, void of a teleological paradigm that the development of the social sciences was nurtured and in turn the arrival of the emotivist *characters*. A bifurcation between human science and morality legitimized the existence of the technocrats and bureaucrats who 'manage' as a consequence of their 'expertise' through the auspices social institutions. MacIntyre asserts that the social manipulation prevalent in emotivist culture is predicated upon philosophical fictions sharing this genealogy.

The dominance of the scientific model of inquiry had direct consequences on the cultural roles played by the social sciences and the humanities. The social sciences that include political science, economics, psychology and sociology, among others incorporated the pervasive scientific method in the development of the particular academic disciplines. Postman states that proponents of social sciences believe that "the study of human behavior, when conducted according to the rigorous principles established by the physical and biological sciences, will produce objective facts, testable theories, and profound understandings of the human condition" (Postman 1992: 145). The social sciences quickly became the instrument of choice for the *manager* since the respect and influence attributed to someone seen as a 'scientist' could contribute to the effectiveness of their cultural manipulations. Ironically, as the social sciences capitulated to the authority of scientific method, the humanities which made no pretense to be scientific became increasingly marginalized in society. The study of the human condition became a subordinate discipline in emotivist culture.

The *manager* can only present himself as someone with exclusive expertise if he can demonstrate adherence to generalized rulings that hold the facility of strong predictive power. Is the exercise of managerial expertise that sustains the *manager*'s position and authority strictly legitimate? MacIntyre does not believe that to be the case, suggesting that "the true achievements of the social sciences are being concealed from us – and from many social scientists themselves – by systematic misinterpretation" (MacIntyre 1984: 90). This misrepresentation is a consequence of the law-like generalizations that sustain the social sciences. The generalizations made by social scientists co-exist with many counter-examples. However, these counter claims are not criticized and scrutinized to the same degree that natural sciences are. These generalizations that are used to sustain the legitimacy of social science "lack not only universal quantifiers but also scope modifiers" (MacIntyre 1984: 91). Thus, to determine under what conditions the generalizations would be effective are impossible to ascertain. Finally, these generalizations cannot be extended beyond the limits of observation to hypothetical instances as can be done with the natural sciences. If this cannot be accomplished the generalizations cannot be deemed to be authentic laws.

MacIntyre steers the reader of *After Virtue* towards Machiavelli, who believed in Fortuna: no matter how sound our investigations, how vigilantly we conduct the research that results in prediction, there exists a systematic unpredictability in the affairs of mankind. This unpredictability originates from four sources (MacIntyre 1984: 93-100):

- Due to "the nature of radical conceptual innovation...any invention, any discovery that consists essentially in the elaboration of a radically new concept cannot be predicted, for the necessary part of the prediction is the present elaboration of the very concept whose discovery or invention was to take place only in the future" (ibid., 93).
- Systematic unpredictability derives from the fact that in many instances an agent cannot predict his own future when in an indecisive state – say, choosing between two alternative actions. Even if another agent is able to predict the first agent's action, he himself would eventually find himself in the same predicament as the first agent. Additionally, neither agent would be able to persistently predict what his actions may have on other agents.
- It is impossible to reliably project the structures of game theory to actual social life. The prisoner's dilemma is a good example of such an instance. Agents will always realize that others will be attempting to predict their behavior in game theory situations coincident with the agent trying to predict his adversary's course of action. This leads to an infinite regress of 'you know that I know that you know…' Furthermore, in real life people are involved in more than one action at a time and thus their actions may not appear to be what the composite intention of the agent is.
- Finally, man must contend with pure contingency. Trivial contingencies can have significant and unforeseen consequences. Example: The business executive who was relieved to be seated on the earlier United Airlines flight number 175 to Los Angeles from Boston on September 11, 2001.

Not all aspects of life are unpredictable. The necessity of scheduling and coordination of social agendas instills predictability into one's life. A second source of predictability arises from statistical regularities. Additionally, the causal relationships of nature place constraints and expectations on human agency. Finally, the awareness of causal regularities of social life can be anticipated and adjusted for in many aspects of day to day experience.

Consequently, human lives are characterized by a blend of predictability and capriciousness which render the injunctive generalizations proclaimed by social science to be inductive, prone to counter-example and contradiction. It follows that the claims made by the *manager* with regard to his expertise in the sphere of prediction reveal themselves to be moral fiction, an illusion or masquerade to facilitate the manipulation of others:

> Hence the manager as *character* is other than he at first sight seems to be: the social world of everyday hard-headed practical pragmatic no-nonsense realism which is the environment of management is one which depends for its sustained existence on the systematic perpetuation of misunderstanding and of belief in fictions. (MacIntyre 1984: 107)

The *manager* presents an imitation of scientifically managed social control while in actuality the claims of the social scientist "function in fact as expressions of arbitrary, but disguised, will and preference" (MacIntyre 1984: 107).

The Investment Advisor effortlessly assumes the *character* of *manager*, claiming expertise in the field of finance and wealth management. Virtually all the major investment dealers in Canada make reference to the word 'expert' or 'expertise' in their promotional and marketing operations:

> RBC Investments
> Professionals provide *expertise* and a global outlook offering you a complete spectrum of premium wealth management solutions, including direct and full-service brokerage, investment counseling, financial planning, discretionary portfolio management, global private banking, trust services, insurance, estate

planning, mutual funds and other products and services. (http://www.rbcinvestments.com/index.html)

CIBC WOOD GUNDY
Generations of Canadians have relied on the one to one *expertise* of CIBC Wood Gundy Investment Advisors to manage their futures. At the heart of these relationships are trust and integrity. Today, we continue to uphold these standards, ensuring our name remains synonymous with excellent service and sound investment expertise (https://www.woodgundy.com)

BMO Nesbitt Burns
Our advisors also draw upon the best investment knowledge and market *expertise* including top-ranked equity research. BMO Nesbitt Burns independent mutual fund research further sets an industry standard for depth and breadth. (http://www.bmonesbittburns.com)

ScotiaMcLeod
In addition to working with *experts* from across the Scotiabank Group, we include other professionals who are integral to your financial strategy like your lawyer and accountant. (http://scotiabank.com)

National Bank Financial
Your Investment Advisor has the *expertise* and information at his/her disposal to guide you in your choice and help you choose the fund or funds that best suit your investor profile. (http://info.nbf.ca/)

MacIntyre asserts that the concept of the *character* of *manager* is not exclusively the franchise of government bureaucrats:

> Private corporations similarly justify *their* activities by referring to their possession of similar resources of competence. Expertise becomes a commodity for which rival state agencies and rival private corporations compete. Civil servants and managers alike justify themselves and their claims to authority, power and money by invoking their own competence as scientific managers of social change. (MacIntyre 1984: 85-86)

The Investment advisor is designated a professional since he meets the criterion set out by Boatright which was referred to in Chapter 3 (page 35). Not only is the IA presented to the public as an expert, i.e. professional, he is supported by a cast of experts within the investment firm in which he is employed. The social science of economics is clearly well represented in this managerial environment. Economists, Chartered Financial Analysts and a host of other specialists contribute to the services being offered to both the retail and institutional investor. Investing and marketing is widely viewed as a science (Luenberger 1998).

Expertise conveys a high degree of effectiveness. Effectiveness "refers to accomplishment of a task. In itself, the term effectiveness carries positive connotations. .... But when a concern with effectiveness becomes an ethic unto itself, problems arise" (Horvath 1995: 502). The 'ethic of effectiveness' concerns itself with 'getting the job done' in the most efficient and cost effective manner. Profit maximization becomes the superseding factor in all management decisions. "If business persons define 'good' based on effective achievement apart from some type of internal or intrinsic worth in their activities, then how does one measure such good? In our capitalist culture, market competition provides such a measure" (Horvath 1995: 514).

A culture that promotes only external goods as being the standard of success gives rise to what the Greeks referred to as *pleonexia* or acquisitiveness. When pleonexia corrupts the concept of *agon,* a contest where excellence is strived for, personal excellence ceases to be the priority. The self takes priority over the community, actions become more important than character, personal best gives way to antagonistic rivalry, cooperation is replaced by competition and the concept of good and bad are substituted by the notion of strong and weak. These changes in interpersonal relations are accomplished through manipulation under the guise of expertise. MacIntyre believes that we have a choice before us: recognize the collapse of the Enlightenment project and follow Nietzsche or accept that the Enlightenment project was misguided from its inception and should have never been undertaken.

MacIntyre acknowledges that Nietzsche correctly recognized the failure of the Enlightenment to identify morality by arguing that "if there is nothing to morality but expressions of will, my morality can only be what my will generates. There can be no place for such fictions as natural rights, utility, the greatest happiness of the greatest number" (MacIntyre 1984: 113-114). This is in addition to MacIntyre's assertion that deontology and utilitarianism fail to provide a meaningful definition of good. MacIntyre goes on to claim that all Nietzsche accomplishes in his project is to entangle us in another set of mistakes by explicating a version of aristocratic self-assertion, exemplified by the concept of the *Übermensch.* The only alternative remaining is the rehabilitation of the Aristotelian notion of virtue. Aristotelianism is not subject to the problems encountered by the Enlightenment's attempt to establish morality in a world that rejects the concept of final causes. In modernity, adherence to rules has become the primary dictate of moral life. Character only becomes esteemed if the right sets of rules are followed. In this moral paradigm virtues are justified on the bases of a prior validation of certain principles. If the latter principles become problematic as MacIntyre claims they have in modernity, then it follows that the former become troublesome as well. MacIntyre believes that the rules should follow after the virtues have been attended to, not before. Can a core conception of the virtues be established? Can a core conception of virtue and a renewed affirmation of the virtue ethics in an

Aristotelian model deliver society from the moral stultification it currently endures? Can the Investment Advisor, as an emblematic individual entangled in the contemporary moral morass, hope to unshackle himself from the ethical constriction of an emotivist culture? An analysis of MacIntyre's moral philosophy will reveal the tenuous situation in which the Investment Advisor finds himself, and at the same time make available a method by which the IA, like any other individual, may prevail over the incomprehensibility of modern moral claims and instead commence an approach to a state of moral excellence, incorporating a *telos* into their narrative with the community.

4. MacIntyre's Tripartite Notion of Virtue

While analyzing the chronicle of virtue in *After Virtue*, MacIntyre acknowledges that it would be difficult to present an argument for the existence of a core concept of virtue:

> One response to the history which I have narrated so far might well be to suggest that even within the relatively coherent tradition of thought which I have sketched there are just too many different and incompatible conceptions of a virtue for there to be any real unity to the concept or indeed to the history....It would be all to easy to conclude that there are a number of rival and alternative conceptions of the virtues, but, even within the tradition which I have been delineating, no single core conception. (MacIntyre 1984: 181)

MacIntyre describes three different conceptions of virtue:

- Homeric: A virtue is a quality which enables an individual to discharge his or her social role. Each individual in such a society "has a given role and status within a well-defined and highly determinate system of roles and statuses....In such a society a man knows who he is by knowing his role in these structures; and in knowing this he knows also what he owes and what is owed to him by the occupant of every other role and status" (MacIntyre 1984: 122). In Homeric society each individual does what is expected of them and hence the society will function as it should. A well functioning society provides the context for pursuit of the virtues that give meaning to individuals in the society.

- Aristotelian, Aquinas and the New Testament: For Aristotle it was the telos of man as a species which determined what human qualities were virtues. Aristotle treated the acquisition and exercise of the virtues as a means to an end and the relationship of means to end is internal. The New Testament account of the virtues has the same logical and conceptual structure as Aristotle's, that being the achievement of the human telos. "Moreover the relationship of virtues as means to an end which is human incorporation in the divine kingdom of the age to come is internal and not external, just as it is with Aristotle." In both cases the concept of the good life of man was prior to the concept of the exercise of virtues (ibid., 184). The comparable concepts of Aristotle and the New Testament allowed Aquinas to synthesize the two concepts.

- Benjamin Franklin's account of the virtues is teleological but was essentially a utilitarian conceptualization. According to Franklin the virtues were a means to an end but the relationship between means and end was an external one as opposed to internal. Happiness for Franklin was interpreted as success, prosperity in both this world and ultimately in heaven (ibid., 185).

MacIntyre argues that we can find a unitary core concept of virtue that in addition provides a conceptual unity to the history of teleological thought. The moral philosophy articulated in *After Virtue* presupposes a sociology where the teleological concepts are embodied in the real world. The sociology conveyed by MacIntyre develops 'the core concept of virtue'; a tripartite scheme comprised of the concepts of a practice, the narrative order of a single human life and tradition. He emphasizes that "each later stage presupposes the earlier, but not *vice versa*" (MacIntyre 1984: 187). The tripartite conceptual scheme is intended to be a substitute for Aristotle's metaphysical telos of 'man-as-he-could-be-if-he-realized-his-essential-nature.' If comprehended correctly, the three unified concepts would prevail over social manipulation and direct the individual towards acts that, while embracing interpersonal cooperation, would deliver him from his initial untutored condition to an actualization of his *telos* (Knight, 2007: 142).

4.1 Practice

The critical aspect of MacIntyre's project of identifying a core concept is the notion of "a particular type of practice as providing the arena in which the virtues are exhibited in terms of which they are able to receive their primary, if incomplete definition." (MacIntyre 1984: 187). It is important to appreciate that the notion of a practice does not mean the only vehicle in which virtues are exercised and that MacIntyre's term practice is defined in a very specific manner:

> By a 'practice' I am going to mean any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended. (MacIntyre 1984: 187)

MacIntyre uses examples of practices to elucidate his definition. Chess, architecture, athletics, agricultural practices, music and other artistic pursuits qualify as practices since they meet the criteria set forth in the above definition since these activities establish their own standards of excellence in regard to their specific implementation and realization. In addition, these activities have their specific intrinsic internal goods that can only be recognized and appreciated by direct participation. These practices are accompanied by technical counterparts that facilitate the functioning of the practice and the institutions which are bearers of the practice. Skills, such as skating and the ability to accurately shoot a puck for a hockey player allow him to pursue and experience athletic excellence. Skills, such as planting corn for a farmer and drafting for the architect do not qualify as practices since they are narrowly defined and fail to meet all the criteria set forth in the MacIntyre's definition. The mastery of skill as compared to the notion of a practice will be elaborated upon below.

A key term involved in the definition of a practice is the idea of goods internal to a practice. MacIntyre uses the concepts of internal and external goods to clarify his definition of *virtue* as "an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which prevents us from achieving any such goods" (MacIntyre 1984: 191). He offers the example of the child who has to be bribed with candy to play chess. The child is told that if he wins, he will be rewarded with twice the quantity of candy than if he loses. The child has an incentive to cheat in order to maximize the amount of candy he receives. However, if at some point the child develops an appreciation for the goods specific to the game of chess, he will aspire to excel at the game whilst coming to the realization that if he cheats he will likely defeat his opponent but deprive himself of the internal satisfaction of excelling at the game. In life, like the game of chess, there are some things that are contingent or external to the game which can be received through various activities. However, there are also goods that are internal that can be obtained only through engaging in some specific practice. These goods are considered internal because they can only be achieved through genuine participation in a specific activity and can only be enjoyed by the individual performing the specified practice. Those who are not acquainted with direct participation in the practice will not be able to fully appreciate the experience of the individual performing the practice. In order to achieve excellence in a specific practice, the participant must also submit to the standards set forth by the practice. By respecting the practice and adhering to its standards the participant submits to objective judgment of their own performance. These standards are not static, but changing over time as higher standards of excellence are achieved through advances in the execution of the practice.

The significance of the difference between the pursuit of external goods and internal goods is of paramount importance if one is to comprehend the notion of practice correctly. "External goods are…characteristically objects of competition in which there must be losers as well as winners. Internal goods are indeed the outcome of competition to excel, but it is characteristic of them that their achievement is a good for the whole community who participate in the practice" (MacIntyre 1984: 190-191). Using the hockey player as an example of an athlete pursuing excellence, the external object of the practice is to win hockey games and advance ones career as far as one desires, albeit with the recognition that there are specific psychological and physical attributes one must possess to achieve an advanced state of the specific vehicle of the practice. Other external goods may include the fame and fortune that is associated with a professional athlete in society. However, the achievement of internal goods for the hockey player will result in the advancement of the athletic practice. Legends such as Maurice Richard, Gordie Howe and Wayne Gretzky raised the bar on the game of hockey; higher standards of athletic excellence were set. As a result, the goal of the current practice's participants is to equal or better these standards.

The challenges of applying MacIntyre's virtue ethics to the Investment Advisor becomes apparent immediately upon delving into the notion of practice. This is due to the fact that the distinction between the concept of internal and external goods is clearly exhibited when specific reference is made to the Investment Advisor. The problem is twofold; the challenge of establishing how internal goods can be ascertained from the profession as the Investment Advisor and secondly, the exceptionally alluring effect that the quest for material goods has on the Investment Advisor. Both of these problems are exacerbated by the nature of the interrelationship between the individual and the institution that is the bearer of the practice. The former difficulty is not exclusive of the latter since the influence of the institution tends to cultivate acquisitiveness while tacitly not promoting attempts to pursue internal goods.

The institutional influence begins in the education process at which point the individual's disposition is established before he enters the securities industry and is introduced to the professional code of ethics. The majority of Investment Advisors have obtained degrees from universities, most obtaining degrees in business or economics at the baccalaureate or masters level. In business schools, students are exposed continually to modern interpretations of the neoclassical economic theory and a utilitarian notion of what constitutes rational behavior:

> Used outside the context of pure economics, this rationality construct in an educational setting inculcates business students and professional trainees with a moral agenda that is very different from that espoused in professional codes of conduct. Because neoclassical economic rationality is the real ethics education that those entering the finance professions receive, what officially passes for ethics education comes too little, too late. Professional neophytes already know—or think they know—what the behavioral ideal is: material opportunism. (Dobson 2003: 30)

The traditional approach to integrating ethical behavior in the securities business is action based, in that the focus is on the development and adherence to rules or guidelines such as codes of conduct and/or codes of ethics. Conversely, the agent based approach as espoused by a virtue ethics model is centered on the character, motivation and intention of the individual agent. A virtue based model is based upon the individual pursuing moral excellence and not simply adhering to rules or guidelines. It is because the securities industry has relied upon the action based ethical paradigm that the importance of internal goods has not been emphasized or sufficiently cultivated.

Participation in a practice requires that the individual recognize the contributions of others and be prepared to accept criticism of his own shortcomings. MacIntyre claims that "we have to accept as necessary components of any practice with internal goods and standards of excellence the virtues of justice, courage and honesty" (MacIntyre 1984: 191):

- Justice requires that we treat others in respect of merit or desert according to uniform and impersonal standards; to depart from the standards of justice in some particular instance defines our relationship with the relevant person as in some way special or distinctive.

- Courage: If someone says that he cares for some individual, community or cause, but it is unwilling to risk harm or danger on his, her or its own behalf, he puts in question the genuineness of his care and concern. Courage, the capacity to risk harm or danger to oneself, has its role in human life because of this connection with care and concern.

- Honesty is required if individuals undertake to pursue common goods. Without honesty in this common pursuit, the allegiance the parties involved become dubious.

(MacIntyre 1984: 191-192)

The critical importance of these components of a practice has been effectively demonstrated during the credit crisis in the global economy occurring as this thesis is being written. Trust has been lost in the financial market place leading to lenders' hesitance to conduct typical business activity with other financial institutions. This lack of trust has in turn resulted in the rise of trepidation and animosity amongst investors globally. The injustices and dishonesty that have led to the problem and the lack of courage to take responsibility for the resultant damage has led to dysfunctional financial markets that have hideously affected global economic stability.

An expression of internal goods is more difficult to clarify for the Investment Advisor due to the overwhelming focus placed on the ethic of effectiveness and pursuit of external goods. Before the notion of internal goods for the IA is considered, a further understanding of the concept of practice must be expanded upon with special reference to institutions.

With respect to regulation, MacIntyre claims that regulation is "a minimal device that has been developed in order to compensate for the grave defects of a culture where the fabric of morality is being torn apart and where government cannot act in the ways that we would want it to if moral community were a real possibility" (MacIntyre 1980: 33). Ironically, the deregulation of the financial services industry in the United States between 1995 and the present has resulted in the chaos that the entire world is currently experiencing.[23] It is a significant fact that while the American securities industry was deregulating, the Canadian securities industry regulation remained comparatively stringent. The relative safety of the Canadian financial system is acknowledgment of the fact that the more austere position taken by securities regulators in Canada has been relatively effective.

In order to ascertain how internal goods can be derived from the practice of business associated with the Investment Advisor it is necessary to distinguish between what constitutes a set of skills and a practice in the MacIntyrean sense. Practices are not merely a set of technical skills:

> What is distinctive in a practice is in part the way in which the conception of the relevant goods and ends which the technical skills serve—and every practice does require the exercise of technical skills—are transformed and enriched by these extensions of human powers and by that regard for its own internal goods which are partially definitive of each particular practice or type of practice. (MacIntyre 1984: 193)

MacIntyre acknowledges that he did not pay particular attention to productive practices in *After Virtue* but in a subsequent work he makes reference to the crafts of farming, construction and architecture—MacIntyre uses the practice of fishing as a specific example:

> The aim internal to such productive crafts, when they are in good order, is never only to catch fish, or to produce beef or milk, or to build houses. It is to do so in a manner consonant with the excellences of the craft, so that there is not only a good product, but the craftsperson is perfected through and in her or his activity. (MacIntyre, 1994: 284)

[23] See: Christopher Dodd's statement from the United States Committee on Banking, Housing and Urban Affairs concerning the role played by regulatory bodies with respect to the 2009 banking crisis.

Moore contends that MacIntyre's description of a productive craft can be applied to all productive activities. Although different practices will differ in the required technical skills and end product, customer service and satisfaction are principal attributes of performing with excellence in business. "The entirely common feature, however, is that each and every business falls within MacIntyre's definition of a practice as 'any coherent and complex form of socially established cooperative human activity'" (Moore 2002: 23).

Moore uses a marketing manager as an example:

> Take a situation in which a marketing manager designs and executes a marketing plan through which, not only does the corporation benefit, but the individual derives intellectual stimulation, the enjoyment of the exercise of practical skills, and the stimulation that the competitive situation affords. (Moore 2002: 21)

MacIntyre refers to this as "excellence of the products" (MacIntyre 1984: 189). The position of Investment Advisor can simply be substituted in the above example since his work serves the requirements of the client and facilitates the functional ability of the social institution of economics of which finance is an ancillary component, as is the financial corporation. Moore claims that by referring to MacIntyre's instance of fishing as a practice that 'business as practice' should be considered as a holistic activity encompassing all aspects of production and marketing using retailing as an example:

> Retailing involves all of the usual functions of business--purchasing stock, employing staff, purchasing or renting premises...and so on. Retailing involves the integration of all of these elements in a holistic activity. And it is only when we consider the holistic activity that it accords fully with MacIntyre's definition

> of practice as a "coherent and complex form of activity of socially established cooperative activity". (Moore 2002: 24)

It is important to differentiate the role of *manager* from a practice. The *manager*'s claims to effectiveness and hence authority should not be considered as a social practice. "It belongs to the characteristic institutional forms of twentieth-century social life. Their concern is not with goods of excellence internal to any particular practice, but with technique, with effectiveness in transforming raw materials into final products, unskilled labor into skilled labor, investment into profits" (Knight 2007: 160). Moore concurs, stating that "the clarification that employment is a feature of institutions reinforces the earlier point that it is business that is the practice. It also clarifies the nature of management, since here, similarly, it is clear that management is a feature of an institution but not a practice in and of itself" (Moore 2002: 24).

An athlete thrives on the action of a competitive sport and derives internal goods from the pursuit of excellence in athletic performance by conducting himself with behaviour that is considered sportsmanship as compared to ethically questionable gamesmanship. The Investment Advisor can seek internal goods from exercising good judgment (*phronesis*) in the ever competitive capital market place (*agon*) by conducting himself in a manner that emphasizes the virtues of justice, courage and honesty. The concept of fairness must be upheld to ensure the integrity of the marketplace and the confidence of the IA's clients. Courage must be exercised when dealing with clients in markets that are unstable and when the client-advisor relationship becomes tense or confrontational due to the innate unpredictability of capital markets. Courage is needed to effectively function in the extremely competitive and tension-filled environment of the markets. Honesty is paramount in maintaining the IA's reputation, sustainability and viability as an advisor. Like the boy in MacIntyre's example that is enticed to cheat at chess for external rewards, the broker that thrives on dishonesty, injustice and craven conduct will not only jeopardize his career but will eventually fail to realize any true sense of self-esteem or excellence (*arête*). If the IA recognizes and avails himself of the virtues of justice, courage and honestly, he will be able to avoid any cognitive dissonance resulting from the attempt to accept and execute behaviors contradictory to his values. Pursuing excellence in this manner will result in the avoidance of the cognitive biases elucidated by Prentice. (see page 36-37) The attainment of internal goods can only be realized from the consistent implementation of the virtues in one's practice. Conducting the practice of business in an ethical manner will lead to increased self-esteem and a sense of satisfaction that both the individual and the community have benefited from one's efforts. "Thus virtue is a special type of sentiment, with both cognitive and affective content. There is an intrinsic pleasure in being virtuous, in doing the right thing.... These concepts of *telos* and *areté* ...lead to *hesuchia*, a satisfaction arising from a job well done" (Horvath 1995: 519).

As indicated above, the relationship between the institution that is the bearer of the practice and the individual in the pursuit of excellence is of paramount importance, for it is through the institution that the overwhelming desire for external gratification is fostered:

> Institutions are characteristically and necessarily concerned with ... external goods. They are involved in acquiring money and other material goods; they are structured in terms of power and status, and they distribute money, power and status as rewards. Nor could they do otherwise if they are to sustain not only themselves, but also the practices of which they are the bearers. For no practices can survive for any length of time unsustained by institutions. Indeed so intimate is the relationship of practices to institutions--and consequently of the goods external to the goods internal to the practices in question--that institutions and practices characteristically form a single causal order in which the ideals and the creativity of the practice are always vulnerable to the acquisitiveness of the institution, in which the cooperative care for common goods of the practice is always vulnerable to the competitiveness of the institution. In this context the essential feature of the virtues is clear. Without them, without justice, courage and truthfulness, practices could not resist the corrupting power of institutions. (MacIntyre 1984: 194)

The dominance of the pursuit for external goods via institutions is so strong that it presents a threat to the pursuit of excellence through virtuous actions. "Practices are often distorted by their modes of institutionalization, when irrelevant considerations relating to money, power and status are allowed to invade the practice" (MacIntyre 1994: 289). In the case of the Investment Advisor, as with any other businessman, sales quotas, productivity optimization and other institutionalized performance criterion often pressure the individual to forfeit his standards of ethical behavior in order to meet the demands and expectations of his employer, and moreover, in the case of the IA, the demands his clients place upon him with same regard to the acquisition of wealth. The incessant acquisitiveness endemic in the securities industry is unique both in its intensity and its exclusive focus. The entire industry is predicated entirely on the acquisition of material wealth in its most unadulterated form. An absurd amount of emphasis is placed on success as defined by the attainment of material wealth; it is often the sole yardstick by which accomplishment is measured by the securities firm, the Investment Advisor and the client. It is in this atmosphere that the IA can be tempted to abandon any sense of values for the attainment of solely external goods.[24] In light of this situation MacIntyre expresses concern that "if in a particular society the pursuit of external goods were to become dominant, the concept of the virtues might suffer first attrition and then perhaps something near total effacement" (MacIntyre 1984: 196). The financial chaos stemming from the sub-prime mortgage fiasco and the ensuing bail out of the U.S. banking system is an excellent case in point where greed completely beset the essential balance required between the quest for external and internal goods.

However, as MacIntyre stresses, no practices can survive for any length of time unsustained by institutions. MacIntyre expresses concern with the valuation of an

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[24] In the 1990s Michael Holoday was considered an exceptionally bright and successful broker at First Marathon Securities. When clients began to notice discrepancies and inconsistencies with what Holoday was telling them and what their brokerage account statements indicated complaints were made to the firm's compliance department and eventually to the Investment Dealers Association and Ontario Securities Commission. The once revered Investment Advisor was subsequently charged with fifteen counts of securities fraud.
When Michael Holoday was sentenced to eight years and nine months in jail in 2001, the judge described him as "a dangerous man" who charmed and defrauded "everyone who came in his path." Holoday had swindled dozens of clients, including his mother-in-law. He cost his victims about $22 million, one of the largest cases of fraud by a single broker in Canada. He did it all while enjoying a lifestyle that included a Porsche, a Jaguar, a 600-horsepower speedboat and a planned Caribbean retreat. Even when he was out on bail after his arrest, Holoday tried to manipulate accounts at three banks.
National Parole Board reports show that he was released on day parole in 2002, but it was revoked the following year due to his deceitful and manipulative financial/business dealings and for withholding information from those supervising him. In its decisions, the parole board uses phrases like "disingenuous manipulation" and "apparent lack of concern for others" to describe Holoday. (Waldie 2006).

institution based solely on external products. "When they are so valued, we are always dealing with a type of activity at once alien and antagonistic to practices and very much at home in modern economic orders. And much modern industrial productive and service work is organized so as to exclude the features distinctive of a practice" (MacIntyre 1994: 286).

MacIntyre cites three countervailing aspects to the institution-practice relationship that demonstrate the essential balance between the two:

- No practice can survive any length of time unsustained by institutions; they characteristically form a single causal order; there is a consequent intimate relationship between internal and external goods.

- External goods should not be considered objects of disdain: they are characteristic objects of human desire and to resist them would be hypocritical since the allocation of external goods is the basis of justice and generosity.

- Even if institutions have the power to corrupt, institutions are integral components of the formation of communities. (MacIntyre 1984: 194-196)

It is of vital importance that the institutions that facilitate practices bear in mind that the relationship between the individual (the IA) and the institution (the securities firm) is one of reciprocity; one cannot survive without the flourishing of the other. The demise of Lehman Brothers, Bear Stearns, Merrill Lynch and AIG Insurance are classic examples of what happens when the pursuit of external goods, in this case wealth and power, becomes of such paramount importance that the notion of practice is treated facetiously by corporate management. Failure of a securities firm to recognize this essential relationship will ultimately lead to unprincipled and disreputable business performance and, in many instances, its eventual demise.

It is of vital importance that the Investment Advisor be aware of the creative tension that must exist between his quest for excellence and his ability to function effectively in the pursuit of external goods as dictated through the institution in which he performs his practice. The IA must realize that the balance between his practice and the institution is analogous to the formulation of an investment portfolio. A strategic balance between safety and growth must be established and subsequently closely monitored to ensure secure and stable portfolio performance. The failures to adhere to such basic investment principles in most cases will inevitably lead to financial ruin and hardship. The *ataraxis* and contentment attained through the pursuit of excellence combined with the satisfactory possession of material goods is the universal goal of all rational individuals—happiness (*eudaimonia*). Awareness of this essential balance should be encouraged by the institution.

MacIntyre maintains that even if we accept the validity of his account of the virtues stimulated through a practice, we do not have an effectual approach of choosing between various practices. Different practices themselves do not allow for an arrangement of a hierarchy of practices. Are individuals to prioritize among practices based on personal preference? This would clearly result in an emotivist situation: the very state of affairs that he has exhaustively critiqued. Because of this problem, the first stage of the tripartite model must be adjoined by the notion of a human life as unity and subsequently by the concept of tradition.

4.2. The Narrative Unity of a Single Human Life

The second building block in MacIntyre's ethical model is the narrative unity of a single human life. As noted above, there is a tendency in the social sciences to portray the life of a human being as a disparate and disjointed series of events: work being distinct from leisure, corporate and personal, self and other and so on. The interrelatedness of the various activities of life is not acknowledged. Life is compartmentalized into a series of distinctive activities mutually exclusive from each other. The moral implications for the self which occupies these various roles are dire; leaving the individual without the integrity to exhibit the same moral character in different social contexts, or the constancy that sets limits to the flexibility of character in the constant pursuit of the same goods through dissimilar and altering social contexts:

> By compartmentalization I mean that division of contemporary social life into distinct spheres, each with its own highly specific standards of success and failure, each presenting to those initiated into its particular activities its own highly specific normative expectations, each requiring the inculcation of habits designed to make one effective in satisfying those particular expectations and conforming to those particular standards....The detailed specificity in the multitude of roles is matched by a lack of anything remotely like adequate prescriptions for the self which is required to inhabit each of these roles in turn, but which is itself to be fully identified with none of them. (MacIntyre 2006a: 117)

"To operate within such a compartmentalized structure an actor must compartmentalize her own life, and she is therefore likely to believe it appropriate to behave as one kind of person in the office and another at home. A compartmentalized society teaches that flexibility is a virtue and integrity a vice. A compartmentalized life is one incapable of completion" (Knight 2007: 160). In order to actuate the virtues through a practice, MacIntyre believes one should perceive their life and that of others as interlocking narratives:

> What the narrative concept of selfhood requires is thus twofold. On the one hand, I am what I may justifiably be taken by others to be in the course of living out a story that runs from my birth to my death; I am the *subject* of a history that is my own and no one else's that has its own particular meaning....The other aspect of selfhood is correlative: I am not only accountable. I am the one who always ask others for an account, who can put others to the question. I am part of their story, as they are part of mine. The narrative of any one life is part of an interlocking set of narratives. (MacIntyre 1984: 217-218)

According to MacIntyre there are two obstacles to the concept of 'unity', one social and the other philosophical. The social obstacle occurs due to the compartmentalization of the various facets of life as stated above. The philosophical problem arises for two reasons. Man's philosophical tendency to think atomistically, reducing complex human actions into single components, is coincident with a contemporary social theory that differentiates between individuals and the roles they play. In both cases "life comes to appear as nothing but a series of unconnected episodes" (MacIntyre 1984: 204). MacIntyre claims that disjointed existence "allows no scope for the exercise of dispositions which could genuinely be counted virtues in any sense remotely Aristotelian" (ibid., 205).

In the securities business it is not uncommon to witness this form of moral schizophrenia; the wearing of several different hats. Ballard (2000: 17) points out that when an individual dons their 'friendship' hat, others are treated with respect, good will and affection. However, when the 'work' hat is worn, deception and manipulation is used; others are treated as means to an end.[25] The use of gaming metaphors and euphemisms in the business world is another such effective and manipulative tactic:

> What are spoken of as the virtues of a good committee man or of a good administrator or of a gambler or a pool hustler are professional skills professionally deployed in those situations where they can be effective, not virtues. Someone who genuinely possesses a virtue can be expected to manifest it in very different types of situation, many of them situations where the practice of virtue cannot be expected to be effective in the way that we expect a professional skill to be. (MacIntyre 1984: 205)

MacIntyre argues that for human activity to become intelligible an individual's actions must be understood in terms of a narrative. It is the narrative self, as opposed to the emotivist self, which recognizes the individual as being embedded in and partially constituted by its social setting.

MacIntyre uses the example of a man gardening. When asked what he is doing he can offer several equally valid answers. He is digging, he is gardening, he is exercising, he is pleasing his wife, or he is preparing for winter. What is significant about the

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[25] Christopher Horne is an excellent example of such moral schizophrenia. Horne worked at RBC Dominion Securities Inc. and had a knack for attracting elderly clients, particularly women, some of whom became so devoted that they included Horne in their wills. As his client list grew, Horne indulged his passion for art. By the early 1990s, he was one of Canada's top collectors, owning works by Henry Moore and Henri Matisse in a collection valued at roughly $4 million. Horne's contribution to the art scene, which included several large donations to galleries, was so extensive that the Art Gallery of Ontario elected him a trustee in 1988 and put his name on a room.
But in late 1993, one of Horne's clients complained to the firm about problems in his account. Horne blamed administrative staff for the errors. In July, 1994, when bank officials started asking tough questions, Horne abruptly resigned. Police soon discovered that $7 million of client money had been used to finance Horne's art collection. Horne pleaded guilty to eighteen counts of fraud in August, 1996, and received a five-year prison term. His art collection was sold off at rock-bottom prices to help cover a string of debts. (Waldie 2006)

various answers is that the behaviour they explain presupposes "some prior answer to the question of how these different correct answers…are related to each other" (MacIntyre 1984: 206). The different answers will explain different behaviours which will necessitate looking in different directions for understanding and explanation. The gardener in Macintyre's example can easily be substituted by the role of the Investment Advisor. Is he trading? Is he managing a client's portfolio? Is he earning commissions? Is he appeasing the demands of his manager? Is he contributing to the contemporary economic paradigm by participating in the distribution of wealth in a free market economy? "We cannot…characterize behavior independently of intentions, and we cannot characterize intentions independently of the settings which make those intentions intelligible both to agents themselves and to others" (ibid., 206):

> The unity of a single life is, then, its setting in history, or better, in the several histories that intersect in one life, since the explanation of any particular actions requires reference to past and future complexes of intersections…. A person finds himself looking backward toward those from whom he has come and forward toward those to whom he is going, roles determined by the past correlative to those that are forming for the future…Insofar as his behavior is intelligible, he can give reasons for it and be responsible for explaining it in terms of his intentions, which necessarily involve reference to setting and characters. (Carden 2006: 83)

An agent's actions can only be acknowledged by placing his intentions in a causal temporal order in relation to his history, and by placing them "with reference to their role in the history of the setting or settings to which they belong" (MacIntyre 1984: 208).

Because the actions of human beings have certain intelligibility, individuals must be held to account for what they have done. The only way that we can make intelligible sense of our own and others statements is by placing them within a narrative of some sort.

"As intelligible social beings in communication with others, it is normal and natural for us to ask for and give intelligible accounts of our actions. So accountability, a universal element of morality, is built-in to the concept of an intelligible human act" (Ballard 2000: 18). The reciprocal relationship between agents is an important part of any narrative. If one's narrative were not accountable, both to himself and others, the narrative would not hold the continuity to make it intelligible or integrated – that is, if the narrative could exist at all without accountability:

> Moral agents have to understand themselves as accountable, not only in their roles, but also as rational individuals. The responsibilities that are socially assigned to roles are defined in part by the types of accountability that attach to them. For each role there is a range of particular others, to whom, if they fail in their responsibilities, they owe an account that either excuses or admits to the offence and accepts the consequences. Without such accountability the notion of responsibility would be empty....To whom are they to understand themselves as accountable? To at least two sets of individuals and groups: those with whom they have engaged together in critically informed deliberation and those whose hitherto unquestioning reliance on the established standards of the social order they challenge by their deliberation and their action. (MacIntyre 2006b: 191)

The unity lies in the form of a narrative quest; a teleological quest for the good life for man. This quest would not be able to commence without some conception of the final *telos*. "It is in the course of the quest and only through encountering and coping with the various particular harms, dangers, temptations and distractions...that the goal of the quest is finally to be understood" (MacIntyre 1984: 219).

How can this quest be related to a member of the securities industry? As has been seen, it is relatively effortless to cite examples of misconduct by Investment Advisors, especially the more sensational occurrences that attract the attention of the media. However one man in particular exemplifies an individual quest for the good of mankind.

John Templeton was born in 1912 in Tennessee. After beginning his career on Wall Street in 1937, Templeton bought a small investment advisory concern in 1940 that became Templeton, Dobbrow and Vance, Inc. He entered the mutual fund industry in 1954 when he established the Templeton Growth Fund. Templeton excelled in the investment industry creating some of the world's largest and most successful international investment funds. However, Templeton did not limit his abilities to the pursuit of self interest. As his success grew he shared his good fortune, becoming one of the greatest philanthropists of modern time.

Templeton contributed a sizable amount of his fortune to the John Templeton Foundation, which in 2008 had an endowment of approximately $1.5 billion and gives out some $70 million in annual grants. The Foundation's mission is to serve as a philanthropic catalyst for research. In 1972, he established the world's largest annual award given to an individual, the £1 million Templeton Prize. The Prize is intended to recognize exemplary achievement in work related to life's spiritual dimension. Its monetary value always exceeds that of the Nobel Prizes; Templeton's way of underscoring his belief that advances in the spiritual domain are no less important than those in other areas of human endeavor. Templeton's progressive ideas on finance, faith, and spirituality made him a distinctive figure in the endeavors he pursued.

Templeton is an example of an individual who recognized and based his narrative on the creative tension between the pursuit of effectiveness and the quest for excellence. Templeton was not a man who was shackled by compartmentalization; the various social roles he embodied had an integrity and constancy that was directed to a better understanding of both the material and incorporeal worlds. MacIntyre's provisional conclusion about the good life for man encapsulates the life of John Templeton: "the good life for man is the life spent in seeking for the good life for man, and the virtues necessary for the seeking are those which will enable us to understand what more and what else good life for man is" (MacIntyre 1984: 219). Like all individuals, part of Templeton's narrative was set in his particular history, but as MacIntyre asserts "the self has to find its moral identity in and through its membership in communities such as those of the family, the neighborhood, the city and the tribe does not entail that the self has to accept the moral limitations of the particularity of those forms of community" (MacIntyre 1984: 221). John Templeton transcended the merely personal aspects of his narrative and contributed to the good of the community.

Underscoring John Templeton's career also demonstrates the importance that the role of moral exemplar plays in the development of a personal narrative of one's life. Dobson (1997b) points out that emulating an exemplary role model is significantly more effective in promoting ethical behaviour amongst peers as compared to codes of ethics, mission statements and disclosing accounts of moral transgressions. Dobson is a proponent of the *Critical Incident Technique,*[26] an approach designed to provide managers with a method to assist in the resolution of ethical dilemmas that arise in business enterprises. This technique emphasizes the importance of learning through personal narratives of others and the importance of role models in the pursuit and realization of an ethically principled career in business. "The individual must be educated in the virtues by a nurturing community and by the guidance of exemplars. This approach takes ethics far deeper than merely a credo or code of conduct. Ethics becomes integral to the professional's whole conception of what he or she is about" (Dobson 1997b: 18). Sales management of the investment firm should embrace the importance of role models and should recognize Investment Advisors who exhibit outstanding ethical behavior. For example, BMO Nesbitt Burns, one of Canada's major investment firms, has a successful mentoring program that incorporates training in required technical skills and guidance in ethics and professional conduct. This program matches new Investment Advisors with experienced peers at a branch office level and seeks to enhance professional service to clients while at the same time reinforcing camaraderie and a sense of community within the firm.

Moral particularities give us our starting point but it is through participation in the community that the quest for the universal good can be found. Individual searches for the good take place within the context defined by that person's traditions. Just as

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[26] The Critical Incident Technique for resolving ethical dilemmas is discussed in detail by Dean, Peter J. 1992. "Making Codes of Ethics Real," *Journal of Business Ethics* 11(April): 285–90.

practices are generally embedded in, and made intelligible through the history of our traditions, so are our lives.

4.3. Tradition

The third and arguably the most contentious theme that provides a basis for MacIntyre's virtue ethics is the concept of tradition. Many of MacIntyre's critics predicate their arguments upon his conception of a living tradition[27] (Freeman 1984: Schneewind 1982: Solomon 1992ab: Wicks 1997). Since *After Virtue,* MacIntyre has devoted much of his scholarship defending his notion of tradition and how modernity represents the antithesis of a society bound by tradition. However, it is not within the scope of this thesis to excessively scrutinize or evaluate MacIntyre's position on the matter of tradition. This is not to say that thorough examination of his work is unjustified or unwarranted, but the focus of this thesis is to apply the notions of moral philosophy presented in *After Virtue* to the role of the individual Investment Advisor. It

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[27] Robert Solomon (1992b) argues that not only can ethics exist in modern business, but specifically virtue ethics. Solomon distances himself from the notion of "tradition" and "community" that is expressed by Alasdair MacIntyre. While Solomon does not agree with MacIntyre's emphasis on the historical development of the Aristotelian tradition, he does concur with the centrality of an Aristotelian paradigm for business ethics. .Solomon emphasized the link between virtue ethics and the corporation as a nurturing community. Solomon argues that capitalism is a complex Aristotelian practice which can enable people to realize certain internal goods and to develop virtues. Solomon for example sees corporations as the perfect environment in which to understanding the nature of the virtues (1992b: 325).
R. Edward Freeman (1988, 1994) puts forward similar views, suggesting that "the bread and butter" of capitalism is cooperation among parties seeking an array of goods and ends—a balance between external goods and internal goods.

is in this context that the concept of tradition will be referred to, recognizing the integral relationship that tradition has with the concepts of practice and the narrative unity of a human life. If the IA expects accountability from himself and others, it is part of his narrative to acknowledge and participate in the enduring evolution of the tradition in which he advances to his practice. To adhere strictly to MacIntyre's argument would be to acquiesce to his utopian ideal of abandoning capitalism and rejecting the tradition of liberal individualism which in turn would render the vocation of Investment Advisor useless.

The final stage of MacIntyre's complex project is the elucidation of his concept of tradition and how this concept is a vital component in an individual's quest for the good of man:

> A living tradition, then, is a historically extended, socially embodied argument, and an argument precisely in part about the goods which constitute that tradition. Within a tradition the pursuit of goods extends through generations, sometimes through many generations. Hence, the individual's search for his or her good is generally and characteristically conducted within a context defined by those traditions of which the individual's life is a part, and this is true both of those goods which are internal to practices and of the goods of a single life. (MacIntyre 1984: 222)

A living tradition links an individual to the wider community (*polis*) since the past is present in each individual through traditions connected to the family, the state, organizations and institutions. Traditions embody values and roles that characterize what we are, but they are not necessarily the sole determinate of what we will become. Traditions provide the starting point and context for the individual's quest. Practices and narratives are embedded within traditions:

> The history of a practice in our time is generally and characteristically embedded in and made intelligible in terms of the larger and longer history of the tradition through which the practice in its present form was conveyed to us; the history of each of our own lives is generally and characteristically embedded in and made intelligible in terms of the larger and longer histories of a number of traditions. (MacIntyre 1984: 222)

Traditions are sustained or destroyed in relation to the "exercise or lack of exercise of the relevant virtues" (MacIntyre 1984: 223). MacIntyre asserts that traditions are dynamic in nature, requiring the individual to reflect on the individual narratives and the practices contained within them in a critical manner. Traditions change over time, some failing and fading into history, while others adapt and emerge from crises and altered circumstances. MacIntyre's position with regard to the dynamic nature of tradition is particularly pertinent with regard to economic tradition considering the vast crisis besetting the tradition of economic liberalism, which is a constituent of the broad tradition of liberal individualism. Before the tradition of economic liberalism is considered, an overview of MacIntyre's opinion on liberalism in general is warranted.

MacIntyre asserts that the foremost reason for the malaise of modernity is the fact that the foundational ideology, liberal individualism, has defined itself in opposition to previous traditions. The historical concept of tradition has been abandoned in favour of the pursuit of universal and timeless reason:

> It was a central aspiration of the Enlightenment... to provide for debate in the public realm standards and methods of rational justification … So, it was hoped, reason would displace authority and tradition. Rational justification was to appeal to principles undeniable by any rational person and therefore independent of all those social and cultural particularities which the Enlightenment thinkers took to be the mere accidental clothing of reason in particular times and places. (MacIntyre 1988: 6)

As mentioned above, the ethical concepts advanced through utilitarianism and deontological models have attempted to base moral behavior on universal truths or timeless injunctions, while postmodern concepts are characterized by an emphasis on subjectivity and particularities rather than objectivity and universals, resulting in the emotivist pursuit of personal preference through manipulative means. MacIntyre claims in *Three Rival Versions of Moral Enquiry*, that the "encyclopaedists" represent the thinkers of the Enlightenment (deontology and utilitarianism) while the 'genealogists' represent the postmodern reaction against modern universalism and absolutism. "*Either* reason is thus impersonal, universal, and disinterested *or* it is the unwitting representative of particular interests, masking their drive to power by its false pretensions to neutrality and disinterestedness" (MacIntyre 1990: 59).

The shortcomings of the liberal arguments are the consequence of the incompatible and incommensurable premises that the culture of liberalism is based upon. MacIntyre states that making any moral commitment would simply be the "criterionless choice between such premises, a type of choice for which no rational justification can be given" (MacIntyre 1984: 39). For MacIntyre, the liberal presumption of universal ahistorical objective rationality is an illusion:

> Liberalism thus a distinctive conception of a just order which is closely integrated with the conceptions of practical reasoning required by public transactions conducted within the terms set by a liberal polity. The principles which inform such practical reasoning and the theory of justice within such a polity are not neutral with respect to rival and conflicting theories of the human good. Where they are in force they impose a particular conception of the good life, of practical reasoning, and of justice upon those who willingly or unwillingly accept the liberal procedures and the liberal terms of debate. The overriding good of liberalism is no more and no less than the continued sustenance of the liberal and social political order (MacIntyre 1988: 344-345).

This is not to say that MacIntyre does not consider liberalism as a 'tradition'. "The inconclusiveness of the debates within liberalism as to the fundamental principles of liberal justice reinforces the view that liberal theory is best understood…as itself the articulation of an historically developed and developing set of social institutions and forms of activity, that is, *as a voice of a tradition*" (ibid., 345, emphasis added).

Traditions are characterized by particular forms of social activity and what divides traditions politically is the conflict between rival traditions. For example, in *Whose Justice? Which Rationality?*, MacIntyre argues that Aristotelianism is a tradition of reasoning about ends as well as means, whereas he regards rival traditions such as those advanced by Hume and Adam Smith as being concerned with reasoning only about means to ends. Hume for example believed that an individual's ends are dictated by pre-rational passions, so that practical rationality was only instrumental in determining the most effective means to those ends:

> Property and the rules for its safeguarding and transmission — the rules which on Hume's view specify the content of justice — thus are made the focus for pride, love, hatred, and humility. Our passions according to Hume are such that they produce in us a definition of our interests in terms of our relationship to property, and it is as propertied or unpropertied in particular ways and to particular degrees that we participate in those social exchanges and transactions whose outcome is either the increase or diminution, or at least the sustaining or the undermining, of the pride and love felt by particular individuals. The rights of property are absolute. There is and can be no standard external to them in the light of which some particular distribution of property could be evaluated as just or unjust. Justice on this view serves the ends of property and not vice versa. (MacIntyre 1988: 295)

For liberalism the 'starting point' for rational inquiry into the ethical life is property; where, MacIntyre asserts, the concept of property advances in priority coincident with the diminishment of the status accorded to the concept of community. With respect to the emotivist malaise affecting Western culture, MacIntyre argues that when language is used as merely spatial reference points, void of social significance, the illusion of objectivity is sustained which allows for inquiry to be based on a purely rationality basis. When the social relations that constitute the real meaning of an object are extricated from that lexicon, the only social relation remaining in which transactions can take place is property. With property as the essential currency of debate it follows that the goods of effectiveness would take priority over the goods of excellence:

> MacIntyre's account of rival traditions of practical rationality presents goods of effectiveness and goods of excellence as the conflicting priorities of two such traditions. The one tradition allegedly privileges the kind of activity exemplified by the kind of competitive, manipulative and managerial relations fostered within institutions, whilst the other privileges that kind of cooperative and emulatory activity which MacIntyre says characterizes practices. The first encourages people to think of their relations with others in terms of power, influence and effectiveness. The second encourages people to focus instead upon the excellence of themselves, their colleagues and their products. (Knight 2007: 165)

Within a living tradition there is conflict: a tradition that is stagnant and without ongoing enquiry is a tradition that is dying. The internal debate within liberalism is, of course interminable, which is the very attribute that liberalism possesses in which it claims to sustain itself as a tradition:

> For in the course of history liberalism, which began as an appeal to alleged principles of shared rationality against what was felt to be the tyranny of tradition, has itself been transformed into a tradition whose continuities are partly defined

> by the interminability of the debate over such principles. An interminability which was from the standpoint of an earlier liberalism a grave defect to be remedied as soon as possible has become, in the eyes of some liberals at least, a kind of virtue. (MacIntyre 1988: 335)

These underlying tenets formulate the principles of economic liberalism, resulting in the institutions that dominate Western culture. The foundations of the liberal tradition of economics are utilitarian: the maximization of happiness through individual consumption concomitant with property rights and individual freedom. MacIntyre précis his criticism of free market economics as follows:

> The weight given to an individual preference in the market is a matter of the cost which the individual is able and willing to pay; only so far as an individual has the means to bargain with those who can supply what he or she needs does the individual have an effective voice. So also in the political and social realm it is the ability to bargain that is crucial. The preferences of some are accorded weight by others only insofar as the satisfaction of those preferences will lead to the satisfaction of their own preferences. Only those who have something to give get. The disadvantaged in a liberal society are those without the means to bargain. (MacIntyre 1988: 336)

This is the tradition in which the Investment Advisor finds himself, essentially 'in the trenches' of free market competition. The *polis* in which the tradition of economic liberalism is to be found is the modern day corporation. The corporation *qua* community is a concept which has evolved throughout the history of economic liberalism; coexisting with parallel subaltern traditions within a liberal society. Wicks states that "the corporation is constituted by both itself as an entity—represented by the set of formal and informal agreements among key stakeholders that evolve over time—and the network of relationships in which it is involved (Wicks 1996: 528). Traditions are dynamic: if they stagnate they perish. The liberalist tradition has demonstrated that it is especially capable at adaptation and transformation. The evolution of classical economics to neoclassical models, the constant political shifts in the social democracies that make up the liberalist tradition of the Western world, are evidence that liberalism is certainly not stagnant and capable of self-modification. The catalyst for modification or revision is more often than not the occurrence of a crisis. The banking catastrophe that global capital markets are experiencing concurrent with the preparation of this paper is an example of such a crisis that puts into question the very epistemology of the tradition of economic liberalism. All communities that have contributed to liberal political economy and social sciences are dynamic systems that have evolved in the response to crises.

MacIntyre envisions traditions as continuously evolving historical narratives that are scrutinized by enquiry and as such provide the framework for rationality. When a tradition's limitations and fundamental inadequacies create conflict, heuristic enquiry generates reformulations and re-evaluations of the tradition paradigm. MacIntyre points out the fact that a tradition is normally able to respond and to react to new situations by using its own resources and that there is usually no interaction with other forms of rationality. Progress is achieved when the inadequacies are indentified and resolved by transformation of core beliefs:

> The solution to a genuine epistemological crisis requires the invention or discovery of new concepts and the framing of some new type or types of theory which meet three highly exacting requirements. First, this is in some ways radically new and conceptually enriched scheme, if it is to put an end to the epistemological crisis, must furnish a solution to the problems which had previously proved intractable in a systematic and coherent way. Second, it must

> also provide an explanation of just what it was which rendered the tradition, before it had acquired these new resources, sterile incoherent or both. And third, these first two tasks must be carried out in a way which exhibits some fundamental continuity and theoretical structures with the shared beliefs in terms of which the tradition of enquiry had been defined up to this point. (MacIntyre 1988: 362)

If these three requirements are not achieved a capitulation to a rival tradition becomes inevitable, motivated by the failure of the original tradition. That specific tradition, which is able to answer the unsolved questions of the original tradition, therefore becomes attractive.

The full consequences stemming from the current economic crisis being experienced by most, if not all, participants in the liberal tradition have yet to be realized. At the moment members of the investment community have failed to demonstrate accountability for their actions and seem perplexed as to what strategies should be employed to effectively solve the liquidity crisis and minimize the long term collateral damage that is threatening global economies. The economic crisis has and will continue to change the face of the economic *polis,* which no doubt will affect the Investment Advisor in far reaching ways. The economic catastrophe of 2008 referred to throughout this thesis may be a crisis of such enormity that it provokes an enquiry into the epistemological foundations of the current economic paradigm. The ensuing debates and traditional enquiry will either falsify the principles on which the current economic tradition is based, or, will provide for the discovery or innovation of a solution leading to reformulation and transformation of the current tradition. MacIntyre claims that living traditions are constituted by evolving narratives; historically extended, socially embodied argument that serve to sustain the tradition.

Does it not follow from this conception of tradition that the continued existence of all living traditions throughout history entails interminable debate?

However, even if one was to concede that modernity in fact characterizes a tradition *per se*, MacIntyre's concept of tradition remains very difficult to apply to the economic *polis*. MacIntyre's critics have focused on his concept of tradition and he is not without his detractors amongst proponents of virtue ethics. MacIntyre's moral philosophy has been particularly anti-capitalist, asserting that "much modern industrial productive and service work is organized so as to exclude the features distinctive of a practice" (MacIntyre 1994: 286). Statements such as this have prompted Wicks to claim:

> MacIntyre's views would effectively rule out any conception of business that is remotely similar to capitalism as we know it. Just as I see MacIntyre's larger thesis as entailing radical departure from current national and global cultural practices, it would appear to require transformation of the economic realm as well, towards something fundamentally different than what we would call "business." Indeed, my sense of MacIntyre's writings suggest that the underlying tension between business in modernity (i.e., capitalism) and his virtue ideal reflect some deeper conflicts at work between "economics" and "virtue". (Wicks 1997: 133)

Wicks calls attention to the fact that MacIntyre has not offered a feasible alternative economic paradigm, further suggesting that in his thesis "the stark contrast between intrinsic (virtue) and extrinsic (economic) suggests that the two are conceptualized as fundamentally as distinct and separate realms, making it a hopeless and thankless task to show that they do (and can) work together" (Wicks 1997: 134). MacIntyre's radical and categorical rejection of modernity is not shared with other contemporary proponents of virtue ethics. Wicks points out that Robert Solomon's work (1992) provides a more optimistic Aristotelian interpretation of business "which can enable people to realize certain internal goods and to develop virtues" (Wicks 1996: 525).

MacIntyre claims that practice and the narrative of the unity of life can only thrive in the milieu of a community founded upon a teleological tradition. According to MacIntyre, that traditional paradigm was abandoned by the Enlightenment and the tradition that symbolizes modernity is a mere veneer with no substantive justification. This view is exemplified by his radical and unapologetic position concerning liberal political economy and summarized in this bleak comparison to the doomed Roman Empire:

> A crucial turning point in that earlier history occurred when men and women of good will turned aside from the task of shoring up the Roman *imperium* and ceased to identify the continuation of civility and moral community with the maintenance of that *imperium*. What they set themselves to achieve instead . . . was the construction of new forms of community within which the moral life could be sustained so that both morality and civility might survive the coming ages of barbarism and darkness. If my account of our moral condition is correct, we ought also to conclude that for some time now we too have reached that turning point. . . . This time, however, the barbarians are not waiting beyond the frontiers; they have already been governing us for quite some time. And it is our lack of consciousness of this that constitutes part of our predicament. We are waiting not for a Godot, but for another—doubtless very different—St. Benedict. (MacIntyre 1984: 263)

According to MacIntyre, what we are waiting for makes no allowance for the Investment Advisor or for the capitalist institutions where he attends to his practice.

Conclusion

Recent developments (November 2008) in global capital markets have highlighted the role that market regulation has played in sustaining efficient and fair markets, whether the regulation is legislated by government agencies or self imposed by participants in the investment industry. Trillions of dollars of market capitalization has been lost in world stock markets while capital lending markets have ground to a halt, frozen by the banking industry's inability and/or unwillingness to extend credit to both corporate and individual borrowers. The foundations of the capitalist system have come under increased scrutiny and criticism as leading economic indicators deteriorate and corporations, that were once considered stalwart pillars of capitalism, teeter on the brink of insolvency.

Considerable protestation has been made of the lack of regulation by government and self regulatory bodies. Politicians, economists and consumer advocates have called for severe punishment to those parties complicit in the activities that have led to this latest financial catastrophe. These outcries merely reinforce the argument that regulation is a reactive instrument as opposed to an effective proactive strategy in the administration of financial markets. However, it must be noted that jurisdictions like Canada, where markets and banks are vigorously regulated, have less of a problem with fraud and corruption than jurisdictions such as the United States that have a less rigorous regulatory system. Litigation and threats of reprisal are an unfortunate characteristic of a society that has become accustomed to laws and regulation as the primary instrument in the functioning of society. When resort to the law is the predominant method of correcting injustice it is a noteworthy indication that the moral principles that encompass trust, fairness and honesty have ceased to be important attributes of our emotivist culture.

The public is rapidly losing faith in the economic institutions that have come to affect so many aspects of modern society; a society that is predicated on material consumption and the pursuit of self-interest. Unless the mistrust and cynicism that permeates public sentiment dissipates, there will be dire consequences for Investment Advisors throughout the securities industry. The fiduciary relationship the Investment Advisor has with his clientele is based on trust and confidence; when this relationship becomes strained the mechanisms that facilitate a fair and efficient marketplace collapse and subsequently place the entire free market system in jeopardy.

MacIntyre's critique of modernity successfully elucidates the problems associated with the principle based ethics of Kant's deontological approach and Mills utilitarian approach to ethical conduct in the securities industry. Investment Advisors are constantly faced with the dilemma of being subjected to the utilitarian methods of corporate decision making while having to adhere to a deontological structure that dictates acceptable behavior in their profession through regulatory bodies. The utilitarian approach that embraces the maximization of profit and focuses on the ethic of effectiveness is often at odds with the obligations and constraints imposed by the principles of moral behavior sanctioned by the deontological basis of the IIROC Regulations and codes of conduct and practices for its members:

> The fundamental misconception that must be addressed in any organization is that ethics codes constrain self-interest. This myth implies that the codes must be ignored, evaded, or circumvented if one is to achieve one's goals. The truth that needs to be made clear is that ethics codes actually define self-interest: They define the true professional as one who has a genuine concern for others in his or her professional milieu. (Dobson 2005: 63)

MacIntyre's assertion that Kant's assumption of the rational will to do right will not necessarily motivate individuals when confronted by pressures to act contrary to such a sense of duty is particularly applicable to the Investment Advisor who often finds himself in such predicaments.

The *manager*, a *character* representative of emotivist culture, can be closely correlated with the role of the Investment Advisor and the aggregation of experts that comprise the securities industry. The claim to possess systematic effectiveness in controlling certain aspects of social reality, in this case financial acumen, is based upon the use of law-like generalizations through the auspices of social sciences which include but are not limited to economics, psychology and marketing. The wealth management industry claims to be able to successfully quantify risk even though the risk associated with the valuation of investments is predominately based upon the unpredictability of human behavior. The markets are a barometer of the mass psychology that determines economic trends and valuations. Claims that one is able to effectively quantify the various parameters and permutations of human behavior for manipulative purposes are based upon a moral fiction. The questionable practices of economic forecasting and the unexpected failure of mathematically engineered derivative products attest to the fact that many of the law-like generalizations utilized by financial professionals are prone to numerous counter examples and contradictions. The ostensibly objective claims of the investment industry are often merely expressions of will and preference.

MacIntyre's notion of a practice is particularly applicable to the position of the Investment Advisor. The concepts of internal and external goods and the topic of the creative tension between the individual and the institution in which the IA pursues his practice are fundamental to the formation of a basic understanding of ethical behaviour. A successful Investment Advisor understands the importance of risk management which consists of maintaining balance in a portfolio between secure and speculative investments. Similarly, balance is the key to maintaining a high quality clientele which is essential in building a sustainable and lucrative business. The concept of balance is also pertinent when consideration is given to the material pursuits, such as wealth, fame and fortune, and the goods internal to a practice. The disciplinary proceedings of the provincial securities commissions and IIROC are rife with instances where IA's have abandoned ethical principles in pursuit of material gain. Careers are not sustainable without adherence to ethical standards and at the same time clients are at risk if their advisor is not of honorable character. The investment business is based upon personal relationships that hinge on integrity, trust and competence. These standards of excellence cannot be achieved without a thorough understanding of the notions of justice, courage and honesty; virtues that MacIntyre deems to be necessary components of any practice.

The Investment industry must realize that character is the *terminus a quo* of distinguished careers and the core attribute of respected companies: the pedagogy of virtue ethics in educational programs is of vital importance if excellence in business is to be achieved.

A creative tension must exist between the individual and the institution. A practice cannot survive without the support of an institution and vice versa since together they form a single causal order. Since institutions are concerned with external goods they are structured around material goods and power. In order to not acquiesce to the corrupting power of exclusively extrinsic reward, the practitioner must be able to exercise virtue through his practice, unhindered by the extrinsic goals of the institution. On the other hand, the institution must acknowledge the importance of virtue that is inherent in a practice if it is not to become a deleterious apparatus of society. The symbiotic relationship between the IA and the corporation that is representative of the economic institution is essential for the individual to conduct his practice and the corporation to flourish in a legitimate fashion.

MacIntyre argues that for human activity to become intelligible, an individual's actions must be understood in terms of a narrative; a life that can be conceived and evaluated as a whole. (MacIntyre 1984: 205) Narrative identity determines how one lives and conducts oneself in the world; the roles in which people situate themselves, how they understand themselves and others and how society is structured are entirely a function of the narratives that are shared in human lives and in the communities to which they belong. The concept of moral exemplars is rooted in the narratives of people that exhibit qualities of virtuous character. The emulation of a role model's narrative serves as a guide in the individual's narrative quest for moral excellence. It is through the accountability, integrity and constancy associated with the narrative unity of a single human life that the individual finds his moral identity. A life lived in terms of a narrative is the nexus between practices that embody moral excellence and the traditions of a community, and is not compartmentalized in specific social roles, but encompasses all facets of an individual's life. Investment dealers should acknowledge this concept and be encouraged to promote a mentoring program. This concept is vital in promoting balance between goods of effectiveness and goods of excellence in this extremely competitive business. Initiatives, such as the program at BMO Nesbitt Burns, are also effective at balancing the IA's quest for excellence in his practice and satisfying the demands from the investment firm for productivity.

Perhaps the most contentious issue in the application of MacIntyre's tripartite notion of virtue ethics is his concept of tradition. His profound anti-capitalist position that is common throughout his writings renders the application of this part of his project unworkable with regard to an exceedingly capitalist oriented vocation as that of the Investment Advisor. That being said, there are some aspects of his thoughts on tradition that warrant comment.

MacIntyre explicitly states that a living tradition is one which is a historically extended, socially embodied argument and an argument precisely in part about the goods which constitute that tradition. He asserts that all traditions are challenged internally; citing three requirements to be satisfied if the tradition is not to be superseded by a superior tradition. He also states that liberal individualism can be "as itself the articulation of a historically developed and developing set of social institutions and forms of activity, that is, *as a voice of a tradition.*" (MacIntyre 1988: 344)

The liberal economic tradition has demonstrated remarkable capacity for modification and revision to what can be deemed epistemological crises. It can be argued that the state of economic liberalism is currently at such a juncture. The global economic crisis stemming from the collapse of the investment banking industry, potential bankruptcy of the American automobile industry and a myriad of other concurrent financial quandaries in fact represent a crisis that threatens the fundamentals of the capitalist paradigm.

If this is indeed the case, then perhaps a radically new and conceptually enriched scheme, which includes an explanation of just what rendered the current economic model dysfunctional, while exhibiting some fundamental continuity and theoretical structure of the prior paradigm, will once again transform the tradition of economic liberalism.

This crisis which currently besieges the global economy may provide the opportunity for the free market economic system to adapt a teleological emphasis; an adaptation that can take root at the level of the individual pursuing *areté* through business-as-practice. If action based ethical models have failed, as MacIntyre's critique of modernity claims, perhaps it is time that virtue based ethics is given priority while the ethical models of deontology and utilitarianism are employed as subordinate instruments within the teleological paradigm. By fostering a virtuous practice through education and the encouragement of moral exemplars, the profession of the Investment Advisor can find balance between the goods of effectiveness and the goods of excellence and thereby contribute to the transformation of an economic system that has contributed greatly to the advancement of mankind. This thesis contends that the Canadian securities industry should incorporate virtue ethics as an integral component in the training, registration and continuing education programs currently ongoing. Furthermore, it is my hope that this thesis will encourage scholars of political economy to enquire into the concept of a teleological capitalist paradigm.

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