

# **ETHICS AND THE DIVISION ORDER ANALYST**

**PRESENTED BY  
CURTIS D. HORNE, CPL  
TO THE  
HOUSTON ASSOCIATION OF DIVISION ORDER ANALYSTS  
JANUARY 14, 2010**

**CURTIS D. HORNE & ASSOCIATES, LLC  
4 HOUSTON CENTER  
1331 LAMAR, SUITE 1262  
HOUSTON, TEXAS 77010  
(713) 225-6700  
CDH@CDHLAND.COM**

## **CURTIS D. HORNE, CPL**

Curtis D. Horne, CPL, is an independent landman based in Houston, Texas. Curt began his career as a field landman in 1981, and has experience in Texas, Oklahoma, Arkansas and Montana. His firm, Curtis D. Horne & Associates, LLC, provides clients with a full range of field land services.

A member of the American Association of Professional Landmen since 1997, Curt earned his CPL designation in 1999. He was Chairman of the AAPL Ethics Committee for 2008-2009, is a member of the Education Committee, and is the Past Chairman of the Certification and Field Landman Committees. He served on the AAPL Executive Committee as Treasurer for 2007-2008. Curt was named recipient of the 2008 AAPL Education Award, the 2007 AAPL Best Member Communication Award, and the 2002 AAPL Field/Independent Landman Award. On the local level, Curt is a member of the North Houston Association of Professional Landmen, where he serves as Marketing/Advertising Chair, and the Houston Association of Professional Landmen, where he served on the Executive Committee as Treasurer for 2007-2008.

Curt is an instructor for the AAPL Certified Professional Landman Exam Review and the AAPL Introduction to Field Land Practices Seminar, presenting topics which include Real Property Law, Contract Law, The Oil & Gas Lease, Title Opinions and Curative, Conveyancing, Interest Calculations, Negotiations and Ethics. He has also spoken on a variety of topics for the NGL Institute, HAPL, NHAPL, ALTAPL, SAAPL, CCAPL, NADOA, HADOA, NALTA, ALTA and at The Association of Desk and Derricks Clubs National Convention.

Mr. Horne lives in the Houston suburb of Pearland with his wife Jamie and their daughter, age 12, and son, age 11. They are active parishioners at St. Helen Catholic Church, where Curt was the Chairman of the 2008 Parish Bazaar and Auction, and is an usher and Eucharistic minister. Curt enjoys running and cycling, and has successfully completed the Houston Marathon.

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# Ethics and the Division Order Analyst

Presented by  
Curtis D. Horne, CPL



Curtis D. Horne, CPL

## Definition of Ethics

1. a system of moral principles: *the ethics of a culture.*
2. the rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.: *medical ethics; Christian ethics; tribal ethics.*
3. moral principles, as of an individual: *His ethics forbade betrayal of a confidence.*
4. that branch of philosophy dealing with values relating to human conduct, with respect to the rightness and wrongness of certain actions and to the goodness and badness of the motives and ends of such actions.

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## Ethics and the Division Order Analyst

All you need to know about ethics you learned in Sunday school:

"Do to others whatever you would have them do to you."

Matthew 7:12



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## Rules of Life

1. God's Law
2. Morals
3. Man's Law
4. Ethics
5. Professional Ethics
6. Business Ethics

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## Rules of Life

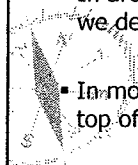
- Listed in descending order of absoluteness: God's law does not change, while business ethics change the most.
- Listed in increasing order of man's influence: man does not influence God's law, while he influences business ethics the most.



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## Rules of Life

- We do not decide what is right and wrong in the big sense.
- In areas where arbitrary rules are needed, we determine the rules of the game.
- In most cases, we are safe in relying on the top of the list.



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## Rules of Life

The penalty for breaking the rules, absent forgiveness, is exclusion from the group:

- Exclusion from the Kingdom
- Exclusion from society (incarceration)
- Exclusion from a profession (loss of license)

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## Professional Ethics

Some professional groups, such as doctors, lawyers and real estate agents, can prohibit the professional from practicing. These professions require a license to practice, which can be revoked or suspended for legal or ethical violations.

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## Professional Ethics

Land professionals currently are not required to be licensed, therefore, the worst punishment AAPL, NALTA or NADOA can impose is expulsion from membership in the association. This does not prevent the guilty from practicing his or her profession.

Curtis D. Heine, CPI

## Professional Ethics

We as an association and we as individuals strive to enforce our rules of ethics on our peers in order to protect ourselves individually, in order to protect ourselves as a group of professionals, and in order to protect the public from unethical practices.

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## Licensing of "Landmen"

On February 18, 2009, Texas State Representative Charlie Geren of Fort Worth filed HB 1405 which would license all landmen under the Texas Real Estate Commission. Essentially, the bill only defines what a landman does and that TREC will write the rules.

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## "Landman" Defined

"Landman" means a person who, in the course and scope of the person's business:

- (A) acquires or manages petroleum, natural gas, or mineral interests;

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## "Landman" Defined

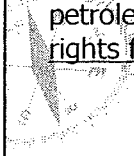
(B) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum, natural gas, or mineral interests;



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## "Landman" Defined

(C) negotiates for the acquisition or divestiture of petroleum, natural gas, or mineral rights, including the acquisition or divestiture of land or petroleum, natural gas, or mineral rights for a pipeline; or



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## "Landman" Defined

(D) negotiates business agreements that provide for the exploration for or development of petroleum, natural gas, or minerals.



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## "Landman" Defined

How many of you may fit one, or more, of these definitions of a "landman", and how many of you deal with the public on behalf of your company?

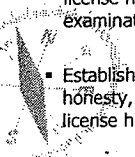


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## In order to protect the public...

To protect the public, the commission (TREC) by rule shall:

- Establish the eligibility requirements for a landman license holder, including education, experience, and examination requirements as appropriate;
- Establish the moral character requirements, including honesty, trustworthiness, and integrity, an applicant or license holder must satisfy to hold a landman license;



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## In order to protect the public...

- Establish the form and procedures for applying for a landman license;
- Set the application and license fees;
- Establish the term of the license and renewal procedures and fees;



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## In order to protect the public...

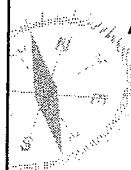
- Establish continuing education requirements;
- Determine the scope of practice by a landman license holder; and
- Require a landman license holder to comply with the standards of conduct and ethics established by the commission for a person licensed under this chapter.



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## The Unlawful Practice of Law (UPL)

West Virginia State Bar  
Committee in Unlawful Practice of Law  
Advisory Opinion 2007-01  
November 29, 2007

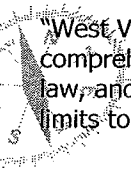


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## The Unlawful Practice of Law (UPL)

"This opinion addresses the issue of whether any of a "Landman's" traditional work involves the practice of law."

"West Virginia does not have a precise and comprehensive definition of the practice of law, and it does not attempt to prescribe limits to the scope of that activity."

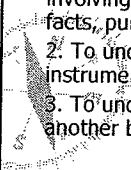


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## The Unlawful Practice of Law (UPL)

"However, in West Virginia the following activity...is clearly defined as the unauthorized practice of law:

1. To undertake to advise another in any matter involving the application of legal principles to facts, purposes or desires;
2. To undertake to prepare for another legal instruments of any character;
3. To undertake to represent the interest of another before any judicial tribunal..."



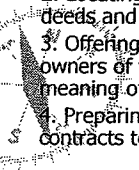
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## The Unlawful Practice of Law (UPL)

### "Are Landmen Practicing Law?"

Assume that any non-lawyer was:

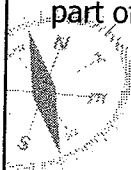
1. Interpreting documents found in a title search;
2. Locating heirs and having them sign quit claim deeds and leases;
3. Offering advice to landowners and mineral rights owners of their legal ownership interest and the meaning of contract language; or
4. Preparing operating agreements and similar contracts to be executed by other parties."



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## The Unlawful Practice of Law (UPL)

How many of you may perform one, or more, of these activities, defined as a "Landman's traditional work", as part of your job?



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## The Unlawful Practice of Law (UPL)

"Could it be plainer that the Unlawful Practice Committee would not hesitate to find that the non-lawyer was engaged in the unauthorized practice of law?"

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## The Unlawful Practice of Law (UPL)

### CONCLUSION

"...the work of a Landman is neither exempted or excepted from the West Virginia definition of the practice of law. Until the issue is addressed by the West Virginia Legislature, it is the recommendation of the Unlawful Practice Committee that Landmen perform the work, that seems to fit within the prohibition against the unauthorized practice of law, only under the direct supervision and control of an attorney licensed to practice law in West Virginia."

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## Codes of Ethics

- The Enron Code of Ethics was a 64-page booklet.
- The HADDOA Code of Ethics is one page.
- The AAPL Code of Ethics is one page.

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## The HADDOA Code of Ethics

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## HADDOA Code of Ethics

**HADDOA**

### HADDOA BY-LAWS

(Revised 6-17-2002)

### ARTICLE 4 - CODE OF ETHICS

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## HADDOA Code of Ethics

This Code of Ethics shall be the basis of conduct, principles, business practices and ideals for the Association. It shall be understood that if the conduct of any member of the Association is inconsistent with the provisions set forth in this Code of Ethics, said member shall be in noncompliance with the accepted standards of professional conduct.

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## HADOA Code of Ethics

In the endeavor to enhance the duties of analysts and associated peers, the ethical standards for proper handling of duties can be made increasingly meaningful by an association organized and dedicated to define these standards and maintain them accordingly.

This is the objective of HADOA and thus is the pinnacle of its commitment to its membership, the energy industry and the public.

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## HADOA Code of Ethics

### Section 1



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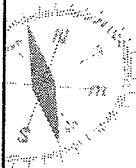
## HADOA Code of Ethics

It shall be the duty of each member to promote and, in a prudent and honest manner, represent HADOA to the public at large and to his fellow members with the purpose of establishing and maintaining goodwill within the industry, the public and HADOA. The member shall conduct business relationships and communicate in manners consistent with professionalism, fairness and honesty so as to maintain the respect of the energy industry, the public and his peers.

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## HADOA Code of Ethics

### Section 2



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## HADOA Code of Ethics

A member shall maintain his relationships with all persons engaged in the energy industry at a high degree of ethical behavior with consistent adherence to established practices of confidence and professionalism.

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## HADOA Code of Ethics

A member shall not betray the trust of an employer, client or HADOA by converting or seeking any confidential or discretionary information available to him for the purposes of personal gain to himself or anyone.

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## HADOA Code of Ethics

A member shall not recklessly act to misrepresent HADOA to third parties or engage in any activity harmful to the Association's existence or its on-going activities as an Association.

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## HADOA Code of Ethics

A member shall exercise the utmost good faith and loyalty to his employer or client and shall not act adversely or engage in any function or any duty in conflict with any interest of his employer or client.

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## HADOA Code of Ethics

A member shall represent his area of expertise to others and shall not represent himself to be skilled in a professional function or duty in which he is not professionally qualified or licensed to practice.

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## HADOA Code of Ethics

A member shall not participate in the conduct of any activity that causes him to be convicted, adjudged or otherwise recorded as guilty of any offense involving **fraud** as an essential element by any court of competent jurisdiction.

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## HADOA Code of Ethics

### Section 3

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## HADOA Code of Ethics

Should a member be indicted by any court of competent jurisdiction for any offense involving **fraud** as an essential element, all membership privileges in HADOA shall be suspended. Upon notice of conviction by said court of competent jurisdiction, membership shall be permanently revoked. Upon notice of acquittal by said court of competent jurisdiction, membership shall be reinstated.

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## Definition of Fraud

### Elements of **fraud**:

- Material representation (by commission or omission)
- False and known to be false
- Intended to be relied upon
- Relied upon by the other party
- Induced action
- Damaged the other party

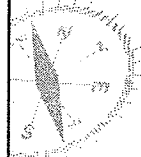


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"Always do right.  
That will gratify some people and  
astonish the rest."

Mark Twain

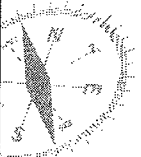


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## Ethics and the Division Order Analyst

"Do right and risk the consequences"

Sam Houston



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## Ethics and the Division Order Analyst

Questions or  
Comments?

[cdh@cdhland.com](mailto:cdh@cdhland.com)



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