# Corporations AC

### Part 1: Plan Text

#### The United States criminal justice system will amend Model Rule 1.6 to clearly acknowledge the power of positive law and of duties that are broader than criminal law, create an exception to attorney-client privilege based on the element of peril, and establish a normative standard of exception, endorsing attorney disclosure in circumstances of grave peril, defined as death or other harmful impacts. I reserve the right to clarify. And, neg offense must be specific to the text and actor of the plan or else it’s not a reason to not do the plan.

### Part 2: Inherency

#### Status quo – lawyers can uphold privilege above potentially lethal chemical effects

Russell 97, Citation: 72 Wash. L. Rev. 409 1997¶ CRIES AND WHISPERS: ENVIRONMENTAL HAZARDS,¶ MODEL RULE 1.6, AND THE ATTORNEY'S¶ CONFLICTING DUTIES TO CLIENTS AND OTHERS¶ Irma S. Russell' [Assistant Professor of Law, University of Memphis]

Application of the Rule with its standard of "imminent death" is more

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strategy of environmental laws to alleviate the dangers of pollution to society.

#### Scope of ACP in environmental context is unclear now- allows companies to avoid EPA enforcement

Weinberg and Reilly 08, Understanding Environmental Law, By Philip Weinberg, Kevin Reilly. LexisNexis, 2008

Some courts have ruled environmental audits to be within a qualified "critical self-

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allows environmental violators to profit from their skirting of the statutes' regulatory requirements.

### Part 3: Solvency

#### Finding a violation allows the EPA to enforce.

Price and Danzig 86, 19 Loy. L. A. L. Rev. 1189 1986. ENVIRONMENTAL AUDITING: DEVELOPING A¶ "PREVENTIVE MEDICINE" APPROACH TO¶ ENVIRONMENTAL COMPLIANCE¶ Courtney M. Price [Partner, Rivkin, Radler, Dunne & Bayh, Washington, D.C. B.A. 1963, University of¶ Alabama; J.D. 1975, University of Southern California Law Center. Ms. Price was formerly¶ the Assistant Administrator for Enforcement and Compliance Monitoring, United States Environmental¶ Protection Agency.] and Allen J. Danzig[Special Assistant to the Assistant Administrator for Enforcement and Compliance¶ Monitoring, United States Environmental Protection Agency; B.A. 1977, University of Pennsylvania;¶ J.D. 1980, Rutgers Law School.]

Where EPA makes a finding that a violation exists, EPA generally must take

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certain level of penalty or other relief in an enforcement case.8 0

#### Audits have deterrent effect, change behavior

Price and Danzig 86, 19 Loy. L. A. L. Rev. 1189 1986. ENVIRONMENTAL AUDITING: DEVELOPING A¶ "PREVENTIVE MEDICINE" APPROACH TO¶ ENVIRONMENTAL COMPLIANCE¶ Courtney M. Price [Partner, Rivkin, Radler, Dunne & Bayh, Washington, D.C. B.A. 1963, University of¶ Alabama; J.D. 1975, University of Southern California Law Center. Ms. Price was formerly¶ the Assistant Administrator for Enforcement and Compliance Monitoring, United States Environmental¶ Protection Agency.] and Allen J. Danzig[Special Assistant to the Assistant Administrator for Enforcement and Compliance¶ Monitoring, United States Environmental Protection Agency; B.A. 1977, University of Pennsylvania;¶ J.D. 1980, Rutgers Law School.]

Recognizing the significant benefits of continous compliance at audited facilities, EPA has agreed

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pollution control and would place complying facilities at a competitive disadvantage.

### Part 4: Carbon Emissions

#### Cases key to check companies’ emissions

ELR 02, United States v. Duke Energy Corp.¶ Citation: 32 ELR 20741¶ No. No. 1:00CV1262, 208 F.R.D. 553/(M.D.N.C., 06/07/2002) Environmental Law Reporter

The court holds that an electric utility need not reveal to the federal government calculations

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withhold revelation of its defenses until the time for expert reports and depositions.

#### Runaway warming is beginning now – without greater carbon control, extinction is inevitable

Tickell 08, (Oliver, The Guardian, “On a planet 4C hotter, all we can prepare for is extinction”, 8/11, http://www.guardian.co.uk/commentisfree/2008/aug/11/climatechange)

We need to get prepared for four degrees of global warming, Bob Watson told

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warming caused by human emissions could propel us towards a similar hothouse Earth.

### Part 5: Species

#### **Court cases key to uphold the Endangered Species Act.**

ELR 02, Maine v. Department of the Interior¶ Citation: 32 ELR 20804¶ No. No. 01-1234, 298 F.3d 60/(1st Cir., 07/30/2002) Environmental Law Reporter

elr.info/litigation/%5Bfield\_article\_volume-raw%5D/20804/maine-v-department-interior

The court holds that a district court properly ordered the U.S. Department

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how the withheld legal analysis would reveal any such fact if it existed.

#### Salmon are a keystone species

CRD no date, (Capital Regional District, The Capital Regional District (CRD) is the regional government for the 13 municipalities and three electoral areas that are located on the southern tip of Vancouver Island, Pacific Salmon, http://www.crd.bc.ca/watersheds/protection/wildlife-plants/salmon.htm)

Pacific salmon played a pivotal role in the culture and sustenance of Coast Salish people

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of connections to many ecosystems that makes the salmon a “keystone species.”

#### Loss of biodiversity will lead to extinction – global ecosystems are reliant on each other

Tonn 7, Bruce E. Tonn, Urban Planning Prof @ Tennessee, November 2007 (Futures v. 39, no. 9, “Futures Sustainability”, l/n)

The first principle is the most important because earth-life is needed to support

AND

earth-life into the distant future the earth's biodiversity must be protected.

### Part 6: Framework

#### I value morality since ought is defined as a moral obligation. The standard is util.

#### 1. The epistemic question about how we derive ethical truths is necessary to determine what those truths are. I defend a pragmatic conception of truth, that knowledge is said to be “true” when it has practical value,

James, Pragmatism: A New Name for Some Old Ways of Thinking - William James 1907. Print

The importance to human life of having true beliefs about matters of fact is a

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value, unless they had been useful from the outset in this way.

#### This view of truth is necessary for morality to guide action

James 2, Pragmatism: A New Name for Some Old Ways of Thinking - William James 1907. Print

Take, for instance, yonder object on the wall. You and I consider

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that we omit it, and are usually justified by all that happens.

#### The pragmatic theory of truth applied to ethics implies util. To prove the resolution true as a general principle, we have to show its general usefulness or practical value to us as a true statement. Util is the only theory of ethics that stems from taking into account the general pragmatic implications of our beliefs. No other philosophy meets the generality and practicality requirements of pragmatism. And, we view pain as bad and pleasure as good.

Nagel, Thomas Nagel, The View From Nowhere, HUP, 1986: 156-168.

I shall defend the unsurprising claim that sensory pleasure is good and pain bad,

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they are not back[ed] up by any further reasons.

#### 2. Further prefer util since the resolution is a question between two policies, so we should use the moral theory that is best for policymaking, which is util.

Woller, (Gary, Economics Professor at BYU, “Policy Currents,” June, http://apsapolicysection.org/vol7\_2/72.pdf ) Showers

Moreover, virtually all public policies entail some redistribution of economic or political resources,

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offs implied by their polices are somehow to the overall advantage of society.

#### 3. There is no stable conception of personhood over time, implies we can only base morality on specific contexts and consequences.

Shultz, Persons, Selves, and Utilitarianism, Bart Shultz, Ethics, Vol. 96, No. 4 (Jul., 1986), pp. 721-745, http://www.jstor.org/stable/2381096

Furthermore, since on this view the continued existence of a person over time just

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Personal identity can, in this sense, be indeterminate.

#### 4. In case of moral uncertainty, i.e. defense on either framework, prevent extinction to preserve our ability to recognize value,

Bostrom, Nick. University of Oxford Professor. 2011. <http://www.existential-risk.org/concept.html>

“These reflections on moral uncertainty suggest an alternative, complementary way

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to increase the probability that the future will contain a lot of value.”

# 1AR Cards

### AT Chilling effect

#### 1. There is no empirical evidence to support this.

Daly, Mary C. Daly, Loyola of Los Angeles Law Review Law Reviews, 6-1-1996, To Betray Once: To Betray Twice: Reflections on Confidentiality: A Guilty Client, an Innocent Condemned Man, and an Ethics-Seeking Defense Counsel, http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1983&context=llr

Another and even more significant difficulty with the core-values approach

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privilege and ethical obligation of confidentiality rest. Empirical data are virtually nonexistent.

#### 2. The chilling effect is empirically denied.

Leong, College of William & Mary Law School, 2007, Attorney-Client Privilege in the Public Sector: A Survey of Government Attorneys, Nancy Leong

http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1237&context=facpubs&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dthere%2520is%2520no%2520chilling%2520effect%2520on%2520attorney%2520client%2520privilege%26source%3Dweb%26cd%3D13%26cad%3Drja%26ved%3D0CDgQFjACOAo%26url%3Dhttp%253A%252F%252Fscholarship.law.wm.edu%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1237%2526context%253Dfacpubs%26ei%3DRhxoUrurNKPYyAH1zoCQCQ%26usg%3DAFQjCNGPIeFPEHlYHpc6QW9W8tdMTNwJ4Q%26sig2%3D14Irnh1o4KOY9L8U9UNfgA%26bvm%3Dbv.55123115%2Cd.aWc#search=%22there%20no%20chilling%20effect%20attorney%20client%20privilege%22

The only existing empirical study of the corporate attorney-client privilege, conducted in

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candor among upper-level executives, particularly with respect to written communications.

#### 3. Attorney Client privilege isn’t necessary to a lawyer protecting their client.

Leong 2, College of William & Mary Law School, 2007, Attorney-Client Privilege in the Public Sector: A Survey of Government Attorneys, Nancy Leong

http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1237&context=facpubs&sei-redir=1&referer=http%3A%2F%2Fwww.google.com%2Furl%3Fsa%3Dt%26rct%3Dj%26q%3Dthere%2520is%2520no%2520chilling%2520effect%2520on%2520attorney%2520client%2520privilege%26source%3Dweb%26cd%3D13%26cad%3Drja%26ved%3D0CDgQFjACOAo%26url%3Dhttp%253A%252F%252Fscholarship.law.wm.edu%252Fcgi%252Fviewcontent.cgi%253Farticle%253D1237%2526context%253Dfacpubs%26ei%3DRhxoUrurNKPYyAH1zoCQCQ%26usg%3DAFQjCNGPIeFPEHlYHpc6QW9W8tdMTNwJ4Q%26sig2%3D14Irnh1o4KOY9L8U9UNfgA%26bvm%3Dbv.55123115%2Cd.aWc#search=%22there%20no%20chilling%20effect%20attorney%20client%20privilege%22

However, interviews with attorneys who represent government officers suggest that these prevailing assumptions do

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instrumental concerns provide insufficient justification for an absolute government attorney-client privilege.

### Plans Good Counter-Interpretation

#### Topic Lit. Core aff topic lit is grounded in action.

Brovero, (Brovero, Adrienne. “SOP, There It Is.” Wake Forest, 1994, http://groups.wfu.edu/debate/MiscSites/DRGArticles/Brovero1994Immigration.htm)

The reason this situation seems so odd is that there is no real "plan

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a debate over policies, and that is what we find ourselves debating.

#### Policymaking. This frame is best to cultivate the most important skills in debate.

Hingstman 83, LESSONS LEARNED, THE PHILOSOPHY OF ORDINARY LANGUAGE AND THE THEORY OF DEBATE, David B. Hingstman - Baylor University. Former debate director, argument theorist. Alta Conference.

Lest we believe that such intellectual commitments are limited to the hypothesis-testing paradigm

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commitment to argument as a means of directing inevitable action on social problems.