

Letters to the Editor of *Dædalus*

On compromised work

November 22, 2005

To the Editor:

I write in response to the article “Compromised work” by Howard Gardner in the Summer 2005 issue of *Dædalus*. I read some months ago the much longer research paper that Gardner summarizes by Paula Marshall, his colleague on The GoodWork® Project.

My reaction to his comments about Hill & Barlow is the same as it was to Marshall’s long report. I felt she did an excellent job of putting the history of Hill & Barlow’s last few years in the broad context of the trends in law firms that have been going on now for several decades. Boston was the last major city to succumb to the drift towards ever larger and less personal organizations that look more like businesses than they do professions. Gardner/Marshall were also right in saying that the leadership of Hill & Barlow failed to see the changes coming when they should have and did too little in response once they did. But they don’t get at the underlying reason why all this happened.

In the past, the great strength of law firms (and, indeed, of most professions) was their ‘culture.’ We understood this to mean the values a firm held and the degree to which they lived by them. Hill & Barlow was renowned for its culture. The firm lived, for example, by the old fashioned creed of “all for one, and one

for all.” And, while not always perfect in execution, Hill & Barlow had the reputation of coming closer to balancing personal and professional needs than any firm in town at that time. In this respect, other firms followed Hill & Barlow’s lead.

In my view, the collapse of Hill & Barlow was the direct result of its culture, a culture so strong that it made it impossible for the firm to take drastic actions solely for business purposes that were in contradiction to their values. Even when information was put before them that should have raised alarms, most partners paid little or no attention. They couldn’t believe that it would not turn around ‘next year.’

For example, they shied away from separating unproductive partners on a large scale. Hill & Barlow just ‘didn’t do that’ to its partners. And even though they tinkered around the edges from time to time, the firm could never bring itself to seriously alter its policy and procedures for approving associates for partnership. At Hill & Barlow, associates could be confident of being made partner as long as they were bright and did basically good legal work without regard to their overall fit into the department’s profile or their capacity to attract new clients. In one year in the 1990s, the firm elected to partnership all seven associates who were eligible, an extraordinarily high number.

Gardner/Marshall lay special blame on Real Estate for the firm’s collapse without providing support for that prop-

osition. They couldn't put forward any evidence because there isn't any. By the 1990s, Real Estate was by a substantial measure the strongest department in the firm. Sometime in 2000, the Real Estate partners became fully aware of how weak the finances of the firm were, and they had no confidence that there was a plan in place that could be implemented quickly enough to salvage the firm. Some members began considering options to move to other firms. If the senior partner in the department had not begun working to ensure that this extremely well-knit group could stay together, even if it meant outside Hill & Barlow, many of the department's younger partners would have walked immediately. In the end, the result would have been the same for the firm and, perhaps, a much worse financial result for all the remaining partners individually.

As executive director of the firm from 1990 until my retirement in 2000, I watched all the early trends unfold and was not surprised when the firm collapsed. (I was not interviewed for either of these articles.) This is not an instance in which blame should be placed anywhere. This was an instance in which an institution was condemned to die because of the very culture that had once made it great. Perhaps the end could have been managed less drastically, but apparently there were pressing financial reasons that led the partners to vote unanimously to close the doors when they did. So, the firm vanished with a bang instead of a whimper.

Hill & Barlow died because it refused, perhaps blindly, to sacrifice its classical values. It wasn't because of "compromised work." Some might call it the result of stupidity and unwillingness to face facts. But, perhaps, it was something of an heroic end for a grand institution that could no longer exist by its

own standards in today's changed conditions. I like to think of it that way.

Simone Reagor

Simone Reagor was executive director of Hill & Barlow from 1990 to 2000. She received her doctorate in history from Oxford University. She is currently a management consultant, principally for Education Development Center, Inc., in Newton, Massachusetts.

November 28, 2005

Howard Gardner and Paula Marshall
respond:

We appreciate Simone Reagor's comments on the sad demise of Hill and Barlow (H&B). However, our detailed study of this institution, carried out principally by Paula (see www.goodworkproject.org) and reported in Howard's synthesizing piece, yielded a different story and pointed to a different moral.

First, our sources of information. For the study, we contacted fifteen key, long-term partners, each of whom had been nominated by a knowledgeable partner or observer, and secured in-depth interviews from twelve partners. We also had comments from informed observers of the legal scene in Boston. Revealingly, the only group that resisted participation in this retrospective inquiry were individuals from the Real Estate (RE) group. When a draft of the paper was completed, we sent it to all interviewees, and secured comments from several of them; these comments were incorporated in the paper that was posted in September 2004. Far from being an idiosyncratic interpretation by outsiders, our study represented an emerging consensus among the chief participants, except for members of the RE group.

Second, what actually happened. We agree that the culture of H&B had been special – indeed exemplary – for decades, and its demise cannot simply be attributed to the greed of the RE group. We disagree, however, on what happened over the last thirty years and what could have been done about it. Cultures cannot be taken for granted; they need to be recognized as such, nurtured as much as possible, and – when survival is at stake – adjusted and revitalized so that the core values can be maintained. Some law firms have been able to do just this. Indeed, the Boston firm most often compared with H&B – Ropes and Gray – appears to have weathered the legal storms. One of their methods has been a long-term, self-renewing management team, which, among other things, determines salaries for the partners.

As detailed in Paula’s paper, H&B is better described as a confluence of missteps, miscalculations, and missed opportunities, followed by a series of poor management practices and decisions. For sure, some members of the firm did try valiantly to save it and to preserve its core values. But they were not the majority, and the practices that had been in the DNA of partners for decades had begun to unravel by the 1980s. By any criterion except that of a completely marketized ‘bottom-line’ profession, the RE group did not have to leave the firm. They were making a very good living! Our interviews documented grave disappointment at the RE group and the secretive and preemptive way in which it operated – the diametric opposite of the picture intimated by Reagor. Moreover, in retrospect, many of the partners whom we interviewed came to believe that the firm could and should have been reconstituted and saved. They regretted the disappearance forever of a precious institution and the loss of jobs and benefits

for dozens of long-term employees and retirees.

Finally, the issue of “compromised work.” This is a term coined by Howard to delineate work that is not, strictly speaking, illegal but that undermines the core values of a profession. It is a question of judgment whether to apply the same term to the sins of commission by Jayson Blair at the *New York Times* and by the accountants of Arthur Andersen with those of the legal community at H&B. In view of the avowed high standards of the legal profession in general, and the fabled reputation of H&B, we conclude that an indeterminate number of the partner/managers did not live up to pivotal responsibilities: in particular, placing service to the profession above personal gain; ensuring that core professional and institutional cultural values are preserved and passed on to young associates; assuming responsibility for the welfare of paraprofessionals; participating in the management process (as faculty do in university governance), making adjustments in management when necessary; and, finally (if colloquially), not abandoning the ship. Instead, in Reagor’s telling phrase “most partners paid little or no attention.”

Simone Reagor may continue to believe in the romantic picture of H&B. We sought to document a principal conclusion of the GoodWork project: a healthy dosage of realism is essential if key professions and institutions are to survive in the current American climate.

Poetry for nonpoets

August 29, 2005

To the Editor:

May I explain my submission? The poem that appears in each issue of *Dædalus*

*On
compromised
work*

is often written by a recognized composer, sometimes with several books of poems to his or her name.

There is a class of members of the Academy who never read published poems anymore. I would like to capture their attention.

At the head of the page where my submission appears perhaps you could substitute “Jingle” as an indicator that the contribution is not a serious poem. This might get the attention of the class of members at which I am aiming.

Jingle

Alarming

The one-l lama,
He’s a priest.
The two-l llama,
He’s a beast.
And I will bet
A silk pajama
There isn’t any
Three-l lllama.

– Ogden Nash

Ogden Nash once said to me
My poem is lovely as a tree.
I said to him, It’s rather trendy
But outdone by my daughter Wendy.
Yes, she can count a little higher
A three-ell lama is a fire.
Though as a rule she’s not a sinner
She eight-ell lama for her dinner;
And once when I was in Peru
I eight-ell lama in a stew!

– Ronald N. Bracewell, AO

Ronald N. Bracewell, AO, a Fellow of the American Academy since 2002, is L. M. Terman Professor of Electrical Engineering Emeritus at Stanford University. In 1998 he was named Officer of the Order of Australia (AO).
