

4-20-2011

Leveraging the Dialectical Theory in Case Study Analysis: Genzyme's Ethical Dilemma

Andrei Duta

Follow this and additional works at: <https://digitalcommons.pepperdine.edu/jbel>



Part of the [Food and Drug Law Commons](#), [Legal Education Commons](#), [Legal Ethics and Professional Responsibility Commons](#), and the [Science and Technology Law Commons](#)

Recommended Citation

Andrei Duta, *Leveraging the Dialectical Theory in Case Study Analysis: Genzyme's Ethical Dilemma*, 4 J. Bus. Entrepreneurship & L. Iss. 2 (2011)

Available at: <https://digitalcommons.pepperdine.edu/jbel/vol4/iss2/9>

This Article is brought to you for free and open access by the Caruso School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in The Journal of Business, Entrepreneurship & the Law by an authorized editor of Pepperdine Digital Commons. For more information, please contact Katrina.Gallardo@pepperdine.edu, anna.speth@pepperdine.edu, linhgavin.do@pepperdine.edu.

LEVERAGING THE DIALECTICAL THEORY IN CASE STUDY ANALYSIS: GENZYME’S ETHICAL DILEMMA

ANDREI DUTA, PH.D.¹

Introduction.....	508
Overview of Genzyme Case Study	510
The Dialectical Theory.....	512
The Dialectical Theory Tenets and Management Strategies	512
Dialectics Typology	515
Genzyme	515
Background Information	515
Organizational Leadership: Twenty-Four Executive Officers and Eight Board Members.	516
Media Reports	516
Genzyme Delivers Strong Third-Quarter Sales and Earnings Growth (10-22-08).....	516
Genzyme Expands its Research and Manufacturing Presence in Massachusetts	517
Genzyme Recognized by Scientists as a Top Employer for Third Consecutive Year.....	518
Genzyme Named One of the Best Employers in the World.....	518
Ethical Dilemma	518
Case Study Key Points.....	518
Discussion Questions	519
Conclusion	520

* Note: The author would like to thank the following people for quality feedback and support in finalizing the article: Professor Janet E. Kerr, Graduate Research Assistant Meghan Milloy, The Journal of Business, Entrepreneurship and the Law (JBEL) Editor-in-Chief Chris Rhyme, and the JBEL Editorial Board.

¹ Dr. Andrei Duta has his Ph.D. from Texas A&M University. His research focus was on governance dynamics and leadership succession in nonprofit organizations. Dr. Duta has been at Pepperdine University for several years as a professor in the areas of organizational behavior, leadership, and conflict mediation. He has recently been appointed by the University as Entrepreneur-in-Residence for the Geoffrey H. Palmer Center for Entrepreneurship and the Law at Pepperdine Law School. Dr. Duta’s main responsibility is to head-up the Microfinance Program, a major social enterprise initiative that the Palmer Center has recently launched in partnership with the Union Rescue Mission in Los Angeles, CA.

Abstract: This paper provides the theoretical framework for a case study that I share with students in my courses. The dialectical theory² is used to analyze ethical conundrums pertaining to Genzyme, a successful bio-tech corporation based in Boston, Massachusetts that manufactures treatments for serious diseases such as kidney problems, immune diseases, and cancer.³ We discuss questions such as: is Genzyme acting unethically when averaging extremely high profit margins on drugs for rare diseases? Is the company taking advantage of the lack of pharmaceutical choices that patients have when addressing their ailments?

The dialectical theory provides the framework and vocabulary for discussing, unpacking, and analyzing the complex aspects of this ethics case study. The students are taught various management strategies for dealing with dialectical tensions. Moreover, students are encouraged to think objectively and systemically in order to understand the complexities of ethical decision-making processes.

INTRODUCTION

Players in the pharmaceutical arena are faced with a conundrum: to price their products to maximize profit or to price their products to maximize consumer equality. The inflated prices of many drugs like Genzyme's Cerezyme⁴ lead many critics to believe that, more often than not, the profit maximizing option is chosen.⁵ The ability to focus on profit maximization and the resulting high prices can be attributed to the fully functioning American free market and the inherently oligopolistic pharmaceutical industry.⁶ Other countries, such as Canada, are able to offer lower prices for their drugs as a result of negotiations between drug companies and the respective governments.⁷

Many people accept these sky-high prices and justify them by noting the

² The dialectical theory examines the interplay of opposites and the way relational and organizational outcomes, processes, and systems are influenced by the management of opposing tensions. See GAIL T. FAIRHURST & LINDA L. PUTNAM, ORGANIZATIONS AS DISCURSIVE CONSTRUCTIONS 5-26 (2004); see also LESLIE A. BAXTER & BARBARA M. MONTGOMERY, A GUIDE TO DIALECTICAL APPROACHES TO STUDYING PERSONAL RELATIONSHIPS (1998).

³ Genzyme, Who We Are, http://www.genzyme.com/corp/structure/corp_home.asp (last visited Apr. 8, 2011).

⁴ Cerezyme is an enzyme replacement therapy for the treatment of Type 1 Gaucher Disease. See Cerezyme, About Gaucher Disease, http://www.cerezyme.com/patient/treatment/cz_pt_treatment.asp (last visited May 17, 2011). Gaucher disease is an inherited disorder that is caused by a deficiency in an enzyme called glucocerebrosidase that occurs in approximately 1 in 50,000 live births most often among persons of Ashkenazi Jewish heritage. *Id.* Symptoms include an enlarged liver and grossly enlarged spleen. *Id.* The spleen can rupture and cause additional problems. *Id.* Skeletal weakness and bone disease may be extensive. *Id.* Those who suffer from Gaucher Disease tend to bruise easily and experience fatigue due to low numbers of red blood cells. *Id.* Cerezyme combats the disease by acting like the naturally occurring enzyme to break down the fat molecules that have accumulated in Gaucher cells. See Cerezyme, About Gaucher Disease, http://www.cerezyme.com/patient/treatment/cz_pt_treatment.asp (last visited May 17, 2011).

⁵ See, e.g., MARCIA ANGELL, THE TRUTH ABOUT DRUG COMPANIES: HOW THEY DECEIVE US AND WHAT TO DO ABOUT IT (2010).

⁶ Because the production of new drugs is expensive, only a few companies demonstrate long-term success and endurance in the industry.

⁷ See, e.g., Kaiser Education, Background of Prescription Drug Costs, <http://www.kaiseredu.org/Issue-Modules/Prescription-Drug-Costs/Background-Brief.aspx> (last visited Apr. 10, 2011).

high research and development costs involved in creating new drugs.⁸ This reasoning is based on one of the basic economic principles: high risk can translate into high returns. Indeed, there are high costs and risks associated with new drug research and development.⁹ Not only is development of a new drug costly and time consuming, but only a few of the new drugs make it to the pharmacy shelves.¹⁰ Moreover, drug companies are faced with the worry of direct competitors and substitutable products getting to the market. An additional challenge is the looming threat of product liability lawsuits¹¹ that could drain millions from the corporate bank accounts.

Friedman economists¹² argue that the main responsibility of businesses and their agents is to increase profits.¹³ They claim that those who fail to price their products in a way that will maximize profits are breaching their fiduciary duty to stockholders.¹⁴ According to these proponents, the right approach or strategy is to charge the highest price that the market will accept.¹⁵ However, the problem with this theory is that charging maximum prices can create a false sense of scarcity of the product which sometimes may force the government to intervene and regulate drug prices.¹⁶

Ironically, government intervention not only fails to create a fair distribution of the drugs, but sometimes it can exacerbate the problem.¹⁷ The price ceiling that the government may create is usually determined by calculating the industry-wide average cost.¹⁸ This ceiling then slowly forces the inefficient or smaller firms out, as they are unable to make a profit from the lower price.¹⁹ Competition narrows as

⁸ ANGELL, *supra* note 5 (discussing the costs of production and research and development).

⁹ *Id.*

¹⁰ *Id.*

¹¹ "Products liability refers to the liability of any or all parties along the chain of manufacture of any product for damages caused by that product." Cornell University Law School, Legal Information Institute: Products Liability, http://topics.law.cornell.edu/wex/Products_liability (last visited Apr. 11, 2011).

¹² Followers of Milton Friedman believe that free markets are the key to economic success. *From bench to bedside*, THE ECONOMIST, June 28, 2007, available at <http://www.economist.com/node/9409108>.

¹³ Ashok Gupta, *Why Should Companies Care?*, 18 MID-ATLANTIC J. BUS. 3 (2003), <http://www.bsu.edu/mcobwin/majb/uploads/pdf/vol18num1/03editorial.pdf>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ John Quelch, *How to Profit from Scarcity*, HARVARD BUS. SCH. WORKING KNOWLEDGE (2007), available at <http://hbswk.hbs.edu/item/5776.html>.

¹⁷ Hugh Rockoff, *Price Controls*, in CONCISE ENCYCLOPEDIA OF ECONOMICS (2008), available at <http://www.econlib.org/library/Enc/PriceControls.html>.

¹⁸ R. GLENN HUBBARD & ANTHONY PATRICK O'BRIEN, MICROECONOMICS ch. 4 (2010) (Price ceilings are determined by finding an equilibrium between producer and consumer surplus. The government does this by averaging the prices of the particular product over an industry.).

¹⁹ This is because, as mentioned previously, while drug companies do charge prices higher than necessary to cover costs, drug companies also have extremely high costs associated with R&D. Even though many companies will charge more than necessary, some companies won't charge quite as much, setting a lower average. If the industry-wide average cost cuts below what a pharmaceutical company needs to breakeven, the company goes out of business. Inefficient companies with higher operating costs are the most likely to fail because, by definition, they have not lowered the costs as much as efficient firms, and, thus, have higher operating costs.

these firms withdraw from the market, and, in the long run, fewer firms may lead back to higher prices.²⁰ Thus, paradoxically, a governmental regulatory system may actually in time lead back to high, unaffordable prices for consumers who require these products.

In addition to the economic consideration that unreasonable prices may cause problems and drive some customers away, there are ethical concerns with companies setting too high prices. By setting prices higher than it is necessary to make a reasonable profit, pharmaceutical companies fail to take into account the social impact of their financial decisions. The refusal to take non-economic, social criteria into account when pricing drugs has moral implications that can affect large numbers of patients. It should be understood that a pharmaceutical company's concern for social impact and consumer equality does not mean that they will hand out their drugs for free or sell them at such low prices that they sustain a loss and are forced to exit the market. Fair dealing and economic sustainability are not mutually exclusive. In fact, it is in everyone's best interest for drug companies to continue to research and develop new medicine and procedures. Since research and development are funded in large part by the profits from drugs on the market, it becomes imperative that drug companies are indeed profitable. The tug of war between fairness and profits must be balanced just as the economic and non-economic interests are.

The ideal outcome is to have pharmaceutical companies and consumers interlocked in a mutually beneficial relationship. Mutually beneficial relationships are created when value is exchanged for value. In this case, in exchange for reasonable profits received on their goods, companies will give back some created value to the consumer by pricing the drugs fairly and affordably. Drugs like Cerezyme that are a life necessity for some patients can only convey value if they are offered to those who need them at prices they can afford. When companies view pricing formulae in this light, perhaps they will understand that unreasonable prices are both a social issue and also a vital business concern. Moral and ethical decision-making needs to accompany drug pricing issues. Lives of patients and goodwill of the public are influenced by the top-level corporate decisions pertaining to profit margins.

OVERVIEW OF GENZYME CASE STUDY

My students agree that the subject of business ethics is important and needs to be moved to the forefront of discussion on the corporate climate marred by the meltdown of flagship businesses²¹ and financial institutions²² in the United States and abroad. Due to globalization, unethical machinations for a business in one

²⁰ Lowering supply, while keeping the demand the same, leads to an increase in prices. See generally HUBBARD & O'BRIEN, *supra* note 18.

²¹ Forbes, Corporate Scandal Sheet, <http://www.forbes.com/2002/07/25/accountingtracker.html> (last visited May 17, 2011) (listing, for example, Enron, WorldCom, Tyco, Arthur Anderson, Satyam, and Parmalat).

²² Wall Street Journal, Tracking the Nation's Bank Failures, <http://graphicsweb.wsj.com/documents/Failed-US-Banks.html> (last visited May 17, 2011) (listing, for example, Fannie Mae, Freddie Mac, AIG, Lehman Brothers, Merrill Lynch, Bernard L. Madoff, and Investment Securities, LLC).

country will ripple and affect investors and other businesses across the world.

A case in point is Stanford International Bank's ("SIB") collapse due to its CEO's multi-billion dollar scheme centering on an eight billion dollar CD program.²³ Mr. Rose Romero, Regional Director of the SEC's Fort Worth, Texas, Regional Office, commented that the shocking magnitude of the fraud committed at SIB "has spread its tentacles throughout the world" as it affected and implicated many diverse players.²⁴ Business ethics has moral and economic dimensions that are reflected globally.

According to various investigative reports in the UK, for example, corporate fraud is estimated to cost the economy billions of dollars in losses.²⁵ Unethical business practices take many forms but typically include "overstating profits, establishing complex accounting schemes that involve siphoning money into offshore accounts, money laundering" and complex maneuverings by top executives to protect dealers who trade in derivatives or equities.²⁶

In our conversations, my students and I are reminded that seldom do corporate executives set out to be malevolent in their business dealings.²⁷ Rather, it is the accumulation of small poor decisions and weakness in the face of circumstantial pressures that force executives to make unethical decisions. Our challenge, therefore, is to figure out how to avoid or stop the cumulative stream of bad choices so as to immunize ourselves in the face of these contextual pressures.

The approach that we adopt in covering the topic of business ethics is based on the dialogic, Socratic method of teaching. The students are encouraged to accept the assumption that success in the marketplace is not an end in itself but a means to a greater end.²⁸ Beyond encouraging my audience to accept this assumption, I do not "preach" to my students and do not supply them with simple or direct answers on the topic of ethics. The case studies that we use in the classroom (i.e. Genzyme) present organizational facts, media reports, and sets of ethical questions that internal actors or external observers would ask. The students are encouraged to wrestle with the case studies and find the answers to these questions on their own.

Before we tackle the Genzyme case study, I equip the students with various tools for analysis. One of the theories that students seem to appreciate and favor is

²³ Robert Watts, *FBI sweeps into cricket boss Sir Allen Stanford's Bank*, SUNDAY TIMES (UK), Feb. 15, 2009, available at http://www.timesonline.co.uk/tol/news/world/us_and_americas/article5734080.ece.

²⁴ See Press Release, Securities and Exchange Commission, SEC Charges R. Allen Stanford, Stanford International Bank for Multi-Billion Dollar Investment Scheme (Feb. 17, 2009) (available at <http://www.sec.gov/news/press/2009/2009-26.htm>).

²⁵ See *Counting the Cost of UK Fraud*, BBC NEWS, Nov. 24, 2005, available at <http://news.bbc.co.uk/2/hi/business/4463132.stm>. See also Nicola Woolcock, *Cost of Fraud Spirals to £40bn*, TIMES ONLINE (UK), available at <http://www.timesonline.co.uk/tol/news/uk/article633540.ece>.

²⁶ See Richard Wachman, *Corporate Fraud Loses UK Business £40bn Each Year*, OBSERVER, Nov. 20, 2005, available at <http://www.guardian.co.uk/business/2005/nov/20/corporatefraud.observer.business>.

²⁷ See JOHN DALLA COSTA, *THE ETHICAL IMPERATIVE: WHY MORAL LEADERSHIP IS GOOD BUSINESS* (1998); see also Robert Prentice, *Teaching Ethics, Heuristics, and Biases*, 1 J. BUS. ETHICS EDUC. 57 (2004).

²⁸ Examples of greater ends include social responsibility to multiple stakeholders, problem solving in the marketplace, and solution providing for customers.

the dialectical theory which provides the framework and vocabulary for observing, discussing, unpacking, and analyzing the complex aspects of our ethics case studies.

THE DIALECTICAL THEORY

The dialectical theory deals with the interplay of opposites.²⁹ One of the driving questions for ethics case studies is the distinction in business praxis between the opposites of *right* versus *wrong* and *good* versus *evil*. As such the dialectical theory lends itself well to investigating ethical conundrums pertaining to opposing poles.

Pricing of pharmaceutical drugs is an important issue in terms of ethical conundrums pertaining to financially challenged, underinsured, or non-insured individuals. Moreover, it is a timely matter given the increased connectivity among people and institutions on a global scale. A pharmaceutical company that specializes in drugs for rare diseases, such as Genzyme, will inevitably be caught in the tug-of-war between *short-term* versus *long-term* orientation³⁰ and *internal* versus *external* organizational focus.³¹

The Dialectical Theory Tenets and Management Strategies

Adopting an organizational dynamics angle, dialectics can be defined as the interplay of opposites³² which lead to opportunities for change in organizational processes.³³ According to Gail Fairhurst, Linda Putnam and Karen Tracy, dialectics is an approach well-suited for organizations because discursive processes constitute and evolve from dialectical tensions, ones “characterized by multivocality and the indeterminacy inherent when those multiple voices interpenetrate.”³⁴ This plurality of colliding and converging voices is rooted in Bakhtin’s theory of dialectics.³⁵

The constant presence of the organizational *dialectical tension* of coming together and moving apart constitutes the first of the four tenets in dialectics: *dialectical tensions, praxis, change, and totality*.³⁶ Traditionally, dialectical typologies that emerge from the organizational communication literature include

²⁹ See FAIRHURST & PUTNAM, *supra* note 2; see also BAXTER & MONTGOMERY, *supra* note 2.

³⁰ The struggle between short-term and long-term orientation is seen in the areas of profitability and financial sustainability.

³¹ This struggle is between the external shareholders and the company’s internal bottom line.

³² See BAXTER & MONTGOMERY, *supra* note 2.

³³ I use the term dialectics and not dualism, duality, or dichotomies, since these other terms do not necessarily point to existing tension, although it could exist. In other words, dual elements can co-exist without leading to friction or triggering change. On the other hand, dialectics, by its very definition, implies and assumes the presence of opposites in dynamic tension that affect the status quo. A subsequent section of the study presents a typology of dialectics.

³⁴ See BAXTER & MONTGOMERY, *supra* note 2; see also KAREN TRACY, EVERYDAY TALK: BUILDING AND REFLECTING REALITIES (2002); see also LESLIE A. BAXTER, RELATIONSHIPS AS DIALOGUES 2 (2004).

³⁵ See MIKHAIL BAKHTIN, SPEECH GENRES AND OTHER LATE ESSAYS (1986).

³⁶ See BAXTER & MONTGOMERY, *supra* note 2.

integration/ separation, stability/change, open/closed, freedom/control, and certainty/uncertainty.³⁷ Baxter describes these dialectical tensions as the interpenetration of united and opposed discourses which actors negotiate in their discursive interactions.³⁸ This point is further developed by Baxter's claim that dialectics cannot exist separate of communication and action.³⁹ The dialectical tensions that actors experience in their discursive practices are instrumental in making and sharing meaning. Actors relate to selves and others in terms of the meaning that emerges from managing these dialectical tensions. This active management of *dialectical tensions* leads us to the next tenet, the concept of *praxis*.

*Praxis*⁴⁰ is based on the assumption that individuals are choice-making, action-oriented agents in their organizations. As such, individuals are proactive, in control, and enabled by their past actions and discourses. However, organizations and social worlds also act back on these individuals.⁴¹ Thus, individuals can become reactive and limited by their prior actions and discourses. To that end, praxis centers on the idea that actors will oscillate between two experiences: subject (proactive, choice-making, acting on) and object (reactive, choice-constrained, being acted upon). Along this continuum there are choice-points that actors can embrace when managing dialectics.

Seo, Putnam, and Bartunek discuss five specific choice points that actors can engage when managing dialectical tensions: *selection*, *separation*, *integration*, *transcendence*, and *connection*.⁴² First, *selection* entails denial; actors place the two poles in a "cold war" relationship where they ignore one of the poles and favor the other. Second, *separation* allows for the existence of both opposing poles, but places them in a pendulum-like oscillation movement; both dialectical poles exist but they are separated "through levels of analysis, topical domains, or temporal processes."⁴³ The third pattern of praxis, *integration*, combines the dialectical tensions in neutralizing or bridging ways. This is reminiscent of the Hegelian synthesis that brings about a new state which contains diluted residues of the two previous antithetical states. Fourth, *transcendence* manages the tensions by abandoning them and reformulating a new whole. The two poles are downplayed

³⁷ See Linda L. Putnam, *Dialectical Tensions and Rhetorical Tropes in Negotiations*, 25 ORG. STUD. 35 (2004).

³⁸ See Leslie A. Baxter, *Relational Dialectics Theory: Multivocal Dialogues of Family Communication*, in ENGAGING THEORIES IN FAMILY COMMUNICATION: MULTIPLE PERSPECTIVES 130 (2006).

³⁹ See *id.*

⁴⁰ MERRIAM-WEBSTER DICTIONARY (2011), available at <http://www.merriam-webster.com/dictionary/praxis> (defining praxis as translating an idea into action. It is thought of as the application or use of knowledge or skills.).

⁴¹ See KAREN TRACY, EVERYDAY TALK: BUILDING AND REFLECTING IDENTITIES (Guilford Press 2002).

⁴² See Myeong Seo, Linda Putnam, & J.M. Bartunek, *Dualities and Tensions of Planned Organizational Change*, in HANDBOOK OF ORGANIZATIONAL CHANGE AND INNOVATION (2004); see also LESLIE A. BAXTER & BARBARA M. MONTGOMERY, RELATING: DIALOGUES AND DIALECTICS (Guilford Press 1996). Baxter and Montgomery present eight patterns of praxis for managing dialectical tensions: denial, disorientation, spiraling inversion, segmentation, balance, integration, recalibration, and reaffirmation. *Id.*

⁴³ See *id.*

or transformed through reframing which shifts the actors' attention to new meanings. Finally, *connection* seeks to find ways to equally accept the dialectical tensions by giving them "equal voice." The difference between the opposing poles is maintained while "the two poles are connected to each other in a synergistic manner where they become mutually beneficial."⁴⁴ Seo's article provides a framework and a vocabulary for discussing the discursive strategies that actors embrace when dealing with *change-inducing* dialectical tensions.⁴⁵

Next, *change* constitutes the third tenet of the dialectical theory. *Change* refers to the procedural and patterned difference in a phenomenon over a period of time.⁴⁶ Organizational change (i.e. leadership succession) is a complex phenomenon that can be heuristically explained through the analysis of the dialectical tensions present in the discursive interactions of actors. This concept embraces Fairhurst and Putnam's *becoming* orientation for organizations.⁴⁷ Organizations are in a constant state of change. The complexity of conflicting discourses in an organization shape and re-shape the organization and its processes.⁴⁸

Finally, *totality* refers to the notion that sets of dialectics cannot be fully understood in isolation from each other and in separation from context. Organizations are best viewed as systems of interdependencies and interrelatedness. Sets of dialectics work together and define each other.⁴⁹ Thus, multiple levels of organizations exhibit multiple sets of embedded and co-formative dialectics.

Employing the dialectical theory for case study analysis is both intentional and strategic. The dialectical theory provides the tools and vocabulary to conceptualize and unpack the ethical tensions experienced and enacted by key organizational actors and the organizations themselves as a whole.

⁴⁴ See Kevin Barge et al., *Managing Dualities in Planned Change Initiatives*, 36 J. APPLIED COMM. RES. 364 (2008).

⁴⁵ See Seo et al., *supra* note 42.

⁴⁶ See BAXTER & MONTGOMERY, *supra* note 2; see also Marshall S. Poole & Andrew H. Van de Ven, *Theories of Organizational Change and Innovation Processes*, in HANDBOOK OF ORGANIZATIONAL CHANGE AND INNOVATION (Oxford Univ. Press 2004). Poole and Van de Ven remark that there are four types of change theories: teleological, life cycle, evolutionary, and dialectical. *Id.* The authors state that change can be often the response to a dialectical motor that deals with tensions around an organizational unit. *Id.*

⁴⁷ See FAIRHURST & PUTNAM, *supra* note 2.

⁴⁸ BAKHTIN, *supra* note 35. Bakhtin points to the fact that dialogue is not able to be finalized due to the never-ending interaction between what he calls the centripetal and centrifugal forces that shape society (or relationships and organizations). *Id.* Bakhtin remarks that the constant friction between voices of unity and voices of separation brings about change in societal (and organizational) systems. *Id.* He visualizes these voices as forces of coming together and pulling apart. *Id.* These voices or forces are constantly present and reflected in the discursive interactions of actors at macro (society), meso (organizations), and micro (groups and dyadic relationships) levels. *Id.* As key actors negotiate discursively the management of organizational dialectics (i.e. long-term vs. short-term orientations or internal vs. external concerns), the organization itself changes. *Id.*

⁴⁹ See BAXTER & MONTGOMERY, *supra* note 42.

*Dialectics Typology*⁵⁰

There are sets of dialectical tensions that some organizational actors of organizations might experience at times. They generally tend to center around three categories: relational, organizational, and goal-orientation. The typology of these sets and the push-pull tension and interplay of opposites can help us better understand actors' motivation and intention when dealing with various situations.⁵¹

GENZYME

The focus of the case study is Genzyme; a successful biotechnology company based in Boston, Massachusetts.⁵² First, the company is described using the material offered on its website.⁵³ Second, various media reports are introduced to highlight key aspects pertinent to the case study. Next, the ethical quandary is introduced. Finally, questions for discussions are supplied as informed by the dialectical theory and the case study material.

Background Information

One of the world's foremost biotechnology companies, Genzyme is dedicated to making a major positive impact on the lives of people with serious diseases.⁵⁴ Founded in Boston in 1981, Genzyme has grown from a small start-up to a diversified enterprise with annual revenues exceeding \$3 billion and 10,000 employees in locations spanning the globe.⁵⁵

The company has delivered consistent financial results, with a compound annual growth rate in excess of twenty percent over the past five years. In 2007, Genzyme was chosen to receive the National Medal of Technology, the highest honor awarded by the President of the United States for technological innovation.

With many established products and services helping patients in nearly ninety countries, Genzyme is a leader in the effort to develop and apply the most

⁵⁰ See Conference of the International Communication Association, Andrei C. Duta, *Meta-level Dialectical Interpenetrations in Transformational and Charismatic Leadership* (2009).

⁵¹ See *id.* The dialectical tensions are categorized as follows: **Relational**, 1. Freedom and Control (a. Chaos and Order, b. Non-routine and Routine, c. Change and Stability, d. Risk and Conservativeness, e. Formality and Collegiality), 2. Emotional and Rational (a. Relationship and Task, b. Heart and Head, c. High-touch and High-tech, d. EQ and IQ), 3. Trust and Distrust (a. Unity and Division, b. Cooperation and Competition, c. Team and Collective, d. Identification and Differentiation, e. Incentives and Threats, f. Dependence and Independence), 4. Informal and Formal, 5. Public and Private, 6. Clarity and Ambiguity (Certainty and Uncertainty); **Organizational Roles**, 1. Universal and Situational (a. Informal and Formal, b. Public and Private, c. Emotional and Rational), 2. Internal and External, 3. Task and Relationship, 4. Giving power and Gaining Power, 5. Risk and Conservative (a. Bricoleur and Traditionalist, b. Non-routine and Routine), 6. Reflexive-based and Praxis-based (Being and Doing); **Goals**, 1. Budget-focus and Customer-focus (a. Cost-focus and Revenue-focus, b. Core purposes and Creative vision), 2. Long-term and Short-term, 3. Centralized and Decentralized (Hierarchical view and Horizontal view), 4. Global Goals and Short Term Goals and Emergent Goals.

Id.

⁵² See Genzyme, *supra* note 3.

⁵³ See *id.*

⁵⁴ See *id.*

⁵⁵ See *id.*

advanced technologies in the life sciences.⁵⁶ Genzyme develops, manufactures and markets a range of innovative health care products and services that make a major positive impact on the lives of patients around the world. The company's products and services are focused on rare inherited disorders, kidney disease, orthopedics, transplants, cancer, and diagnostic testing. Genzyme's commitment to innovation continues today with a substantial research and development program focused on these fields, as well as immune disease, infectious disease, and other areas of unmet medical need. The company's headquarters are in Cambridge, Massachusetts, in the United States.⁵⁷

*Organizational Leadership: Twenty-Four Executive Officers and Eight Board Members.*⁵⁸

Henri A. Termeer

Henri A. Termeer was appointed President of Genzyme Corporation in 1983, two years after the company's founding. He became its Chief Executive Officer in 1985 and Chairman in 1988. Under his leadership, Genzyme has grown to be an international leader in the biotechnology industry.

Mr. Termeer is recognized as a pioneer in developing and delivering treatments to patients with rare genetic diseases around the world. This work has provided the foundation for Genzyme's success, and today the company is diversified across several medical areas.

Widely acknowledged for his contributions to the biotechnology industry and health care field, Mr. Termeer is active in the areas of humanitarian assistance, policy issues, and innovation in providing access to health care. He serves on the board of directors of both the Biotechnology Industry Organization and the Pharmaceutical Research and Manufacturers of America. He is a director of Massachusetts General Hospital and is a member of the board of fellows of Harvard Medical School.⁵⁹

*Media Reports*⁶⁰

*Genzyme Delivers Strong Third-Quarter Sales and Earnings Growth (10-22-08)*⁶¹

Genzyme Corporation (NASDAQ: GENZ) announced today that third-quarter revenue rose 21 percent [sic] to \$1.160 billion, compared with revenue of \$960.2 million in the same period a year ago. The increase was driven by double-digit growth in every Genzyme business unit.

⁵⁶ *See id.*

⁵⁷ *See* Genzyme, *supra* note 3.

⁵⁸ *See id.*

⁵⁹ *See* Genzyme, Corporate Officers: Henri A. Termeer, www.genzyme.com/corp/structure/bios_termeer.asp#P25_486 (last visited May 17, 2011).

⁶⁰ *See* Genzyme, Investor Information, www.genzyme.com/corp/investors/inv_home.asp (last visited May 17, 2011).

⁶¹ *Id.*

Generally Accepted Accounting Principles (GAAP) net income was \$119.6 million, or \$0.42 per diluted share, compared with \$159.3 million, or \$0.58 per diluted share, in last year's third quarter. Net income in 2008's third quarter reflects a \$100 million licensing fee for rights to PTC124, a promising genetic disease drug in late-stage development.⁶²

During the third quarter, Genzyme generated approximately \$481 million in cash from net income prior to one-time events and proceeds from the issuance of common stock. The company has increased its cash position to approximately \$1.5 billion while making investments to support long-term growth, including investments to expand manufacturing capacity, to offset dilution by repurchasing shares, and to complete strategic transactions that strengthen its late-stage pipeline.⁶³

"The third quarter was a very strong quarter financially and also extremely productive in terms of building for the future," said Henri A. Termeer, chairman and chief executive officer of Genzyme Corp. "Our broad geographic diversification, solid cash position, and group of market-leading products will allow us to sustain our growth through the current financial environment and over the longer term."⁶⁴

Genzyme is on track to meet its goal of 20% compound average non-GAAP earnings growth from 2006 through 2011. For 2009, the company expects non-GAAP earnings to increase to approximately \$4.70 per diluted share. Non-GAAP earnings are projected to rise to approximately \$7.00 per diluted share by 2011.⁶⁵

These estimates include the impact of Genzyme's redemption of its convertible senior notes. The company plans to redeem all \$690 million of these notes as of December 1, 2008. The notes are redeemable in cash or can be converted to common stock at the option of the noteholders at a conversion price of \$71.24 per share.⁶⁶

Genzyme Expands its Research and Manufacturing Presence in Massachusetts

Genzyme announced the start of construction on an innovative new science building that is a signature component of a \$210 million investment the company is making in its Massachusetts research and manufacturing operations. This includes a new research facility in Waltham and a major expansion of the company's flagship protein manufacturing facility in Allston.⁶⁷

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See *Genzyme Reports Strong Third Quarter Sales and Earnings Growth*, WORLD PHARMA NEWS, Oct. 24, 2008, available at <http://www.worldpharmanews.com/genzyme/577-genzyme-reports-strong-third-quarter-sales-and-earnings-growth>.

⁶⁵ See Press Release, Genzyme, *Genzyme Reports Strong Fourth Quarter and 2008 Revenue Growth* (Jan. 13, 2009) (available at <http://www.genzyme.com/corp/investors/GENZ%20PR-011309.asp>).

⁶⁶ See *id.*

⁶⁷ See *Manufacturing at Genzyme's Allston Landing Facility*, http://www.genzyme.com/corp/careers/Allston_Manufacturing.pdf (last visited May 17, 2011).

Genzyme Recognized by Scientists as a Top Employer for Third Consecutive Year

Scientists have again named Genzyme Corporation a top employer in a 2005 survey ranking the reputations of biotechnology and pharmaceutical companies. Genzyme placed sixth among the 459 global companies included in the survey and is the highest ranked company in New England.⁶⁸

Genzyme Named One of the Best Employers in the World

Genzyme was named one of the “250 Best Places to Work” in Portugal, February 2008.⁶⁹

ETHICAL DILEMMA

On November 16th, 2005, the Wall Street Journal featured a special article on Genzyme. The article discussed one of Genzyme’s flagship drugs, Cerezyme, and the drug’s low level of affordability for some of the customers/patients against the backdrop of the company’s strong financial situation. One of the central issues presented in the article was the fairness of charging the patients too much for the drug.⁷⁰

Geeta Anand’s article triggered a large number of conversations on the topic of Genzyme and Cerezyme.⁷¹

CASE STUDY KEY POINTS⁷²

Gaucher disease: frailty of the bones, deformity of the joints, deterioration of the bones, a cruel disease.

Cerezyme drug is used to fight Gaucher disease.

Average cost is \$200,000 a year per patient.

Company makes 90% gross profit margin on Cerezyme.

Cerezyme generated a billion dollars in revenue in 2006.

Carol, patient: \$601,000 a year for treatment (\$520,000 for Cerezyme and \$81,000 for nurse).

Only 4,000 patients in the world who deal with the Gaucher disease.

Mr. Henri Termeer, CEO: \$3,000,000 salary/bonus last year plus options values of \$12.6 to \$32 million in ten years based on company’s stock appreciation

⁶⁸ See Genzyme, Awards and Recognition, http://www.genzyme.com/corp/structure/awards/awards_2006_earlier.asp (last visited May 17, 2011).

⁶⁹ See Genzyme, Genzyme in the News, http://www.genzyme.com/corp/media/inthenews_genz.asp (last visited May 17, 2011).

⁷⁰ See Geeta Anand, *A Biotech Drug Extends a Life. But at What Price?*, WALL ST. J. (Nov. 16, 2005), available at <http://online.wsj.com/article/SB113210858490898540.html>.

⁷¹ See *Wall Street Journal Examines Higher Price of Gaucher Disease Treatment Cerezyme*, MED. NEWS TODAY (Nov. 17, 2005), available at www.medicalnewstoday.com/articles/33642.php; see also *Economics, Politics, and Psychology: The Case of Avian Flu—Posner*, The Becker-Posner Blog, <http://www.becker-posner-blog.com/archives/2005/11/> (Nov. 15, 2005).

⁷² See Anand, *supra* note 70.

(as of 2005).

The company claims that a substantial part of the profits sponsors the drug in poor countries and funds new research for other rare diseases.

DISCUSSION QUESTIONS

Is it ethical to generate a 90% gross profit margin on a medical drug such as Cerezyme? Is this even an ethical matter?

Some parties would consider that this is an ethical matter. Since the high profit margin on Cerezyme makes the drug unaffordable for some patients, fiscal concerns turn into moral concerns in this situation. While it can be argued that managers of pharmaceutical companies have no ethical responsibility in regards to pricing strategies and that their only responsibility is to maximize profits, Genzyme must realize that the most profitable business is one of long-term orientation that seeks to satisfy both the expectations of shareholders as well as the interests of patients.

How does the dialectical theory apply to the ethics dilemma at Genzyme?⁷³

The dialectical theory applies to the case study because the decisions that Genzyme must make regarding their profit margins and pricing strategies emerge from the management of dialectics or underlying opposing tensions. Potential dialectics present in this case study include: purposing versus functioning, short-term versus long-term, change versus stability, competing versus cooperating, public versus private, internal versus external, budget-focused versus customer-focused, and systemic or meta-level dialectics of freedom versus control and free-market versus centralized economy.

Some of these dialectics revolve around Genzyme's arguments in favor of high margins and the corresponding counterarguments or counter questions:

It took us a long time to recover initial R&D costs to break even.

What is the exact timeline for breaking even? What is reasonable in light of the fact that there is no competition to drive the prices down?

We are using part of the profits to research new rare diseases and create new drugs to help more people.

Should the US patients be forced to cover these costs? Would it be fairer to have government grants cover these R&D costs? How about minimizing company profits while still channeling internal resources to R&D? Are there tax benefits for this? Could general goodwill with the public and the company's corporate social responsibility reputation function as an incentive to lower the drug prices?

We are donating the drug to people in third world countries who could not afford it otherwise.

Should US patients be the forced to subsidize the drug for patients in developing countries?

⁷³ What dialectics or push-pull tensions are present in this situation? What voices are present in the debate? What contradictions? What conflicts? What management strategies are or should be employed in dealing with these dialectics?

Who are the stakeholders in this case? What parties are affected by Genzyme and its drug pricing policies?

Potential stakeholders include: government agencies, competition, private citizens, CEO, other executive officers, board of directors members, staff, media, patients, patients with or without insurance, patients in third world countries, insurance companies, doctors, shareholders in the company, company employees with stock options, company employees without stock options, lawyers, and government policy makers.

What is the role of the board of directors?

The role of the board of directors includes exercising fiduciary duty owed to shareholders, providing accountability for management, strategically setting the course for financial profitability, fulfilling purpose versus function roles for the organization, encouraging corporate social responsibility, and setting the moral direction for the company and its executive leadership.

Is it problematic that Mr. Termeer assumes a dual role (CEO and board chair) position at Genzyme?

Since Mr. Termeer serves as both CEO and Chairman of the Board, he deals with potential conflicting interests. Issues of independence and objectivity could arise in this instance. Mr. Termeer's conflicting roles (purposing roles as Chair and board member and functioning role as CEO) could create problems. There is concern that serving in this dual role could lead to a conflict of interest between Mr. Termeer's personal goals and the goals of the company. The potential conflict of interest problems could be avoided with either the separation of the roles or the appointment of a lead director.

What other questions should be asked in light of the dialectical theory and Genzyme?

CONCLUSION

The dialectical theory has heuristic value as it greatly aids in the process of knowledge creation when it comes to unpacking and understanding ethical predicaments. The theory is relatively easy to understand once the students get over the more abstract Bakhtinian concepts.

Accuracy is high as the dialectical theory can detect, describe, and understand the sets of ethical tensions that various internal actors and relevant, external stakeholders may experience in various organizational contexts as the Genzyme case study demonstrates.

The main critique of the dialectical theory is its non-generalizability (from case study to case study) and its potential "self-fulfilling prophecy" approach. The dialectical theory functions as both theory and method of analysis. Ontologically, the dialectical theory is leveraged as a prism through whose lenses the students can view organizations and their actors' struggles with ethical dilemmas. Epistemologically, the dialectical theory functions as a method for analysis and knowledge creation. As such, the student can become self-biased and end up observing conflicts, tensions, and contradictions even in situations where they may be absent.

However, the primary strengths of the dialectical theory far outweigh its weaknesses of limited generalizability and self-prophecy tendencies. Perhaps the greatest contribution of the dialectical theory is the fact that it examines organizations from a systemic perspective that seeks to embrace the whole. The theory is effective in illuminating various ethical challenges that emerge in larger organizational contexts, as is the case with Genzyme.

Finally, the theory is useful since it provides the springboard for meaningful student-led conversations about relevant ethical dilemmas in corporate America. The ultimate goal is to have the students engage in deep cogitative and communicative processes regarding the difference between “right versus wrong” and “good versus evil.” Hopefully, the dialectical theory provides the seeds for future virtuous conversations that will take place long after the students have graduated and have entered the marketplace.