



REVISTA AMBIENTE CONTÁBIL

Universidade Federal do Rio Grande do Norte

ISSN 2176-9036

Vol. 17, n. 2, Jul./Dez., 2025

Sítios: <https://periodicos.ufrn.br/index.php/ambiente>

<http://www.atena.org.br/revista/ojs-2.2.3-06/index.php/Ambiente>

Article received in: March, 18th, 2024. Reviewed by pairs in:

August, 06th, 2024. Reformulated in: September, 09th, 2024.

Evaluated by the system double blind review.

DOI: 10.21680/2176-9036.2025v17n2ID40773

Money laundering, embezzlement and tax evasion: a teaching case

Blanqueo de capitales, malversación y evasión fiscal: un caso didáctico

Lavagem de dinheiro, apropriação indébita e sonegação de impostos: caso de ensino

Authors

Rodrigo de Souza Gonçalves

PhD in Accounting Sciences from the Multi-institutional and Inter-regional Postgraduate Program in Accounting Sciences (UnB/UFRN/UFPB). Professor at the Department of Accounting Sciences of the Postgraduate Program in Accounting Sciences at the University of Brasília/UnB. University of Brasília/UnB, University of Brasília Foundation, Department of Accounting and Actuarial Sciences. Address: Campus Universitário Darcy Ribeiro. Asa Norte. 70910900 - Brasília, DF – Brasil. Telephone: (61) 31070798. Identificadores (ID):

ORCID: <https://orcid.org/0000-0003-3768-2968>

Lattes: <http://lattes.cnpq.br/4023161344392233>

E-mail: rgoncalves@unb.br

Patricia Garone Figueira Falcão

Master in Accounting Sciences from the University of Brasília/UnB. University of Brasília/UnB, University of Brasília Foundation, Department of Accounting and Actuarial Sciences. Address: Campus Universitário Darcy Ribeiro. Asa Norte. 70910900 - Brasília, DF – Brasil. Identificadores (ID):

ORCID: <https://orcid.org/0000-0003-4640-9939>

Lattes: <http://lattes.cnpq.br/9167424775127927>

E-mail: falcaopg.unb@gmail.com

Monick Rodrigues Lima

Graduated in Accounting Sciences from the Federal University of Ceará. Address: Av. da Universidade, 2853 - Benfica, Fortaleza - CE, CEP 60020-181. Telephone: +55(85)33667300. Identificadores (ID):

ORCID: <https://orcid.org/0009-0003-8377-9266>

Lattes: <http://lattes.cnpq.br/9183740255694702>

E-mail: monick_lim@yahoo.com.br

(Apresentado no Congresso Enanpad 2023, de 26 a 28 setembro)

Abstract

Purpose: This teaching case aims to deepen the knowledge related to money laundering, misappropriation and tax evasion, to encourage the debate in classroom on the accountant's responsibility and ethical dilemma when faced with evidence that their clients are committing those crimes.

Methodology: Based on facts widely disclosed by the press, this teaching case encourages discussion on the accountant's responsibility and ethical dilemma, considering the provisions of Law 12,683/2012 (Fighting money laundering law) and 8,137/1990 (Crimes against the tax system), as well as the CFC Resolution 1,530/17, using the Rational Choice Theory as basis.

Results: This teaching case allows students to deepen their knowledge on how to identify money laundering, misappropriation and tax evasion crimes and encourage the debate in the classroom on the accountant's responsibility and ethical dilemma.

Contributions of the Study: It is expected that this teaching case can be used in undergraduate and/or postgraduate courses (*stricto sensu and lato sensu*) in the Accounting or related disciplines: Financial Auditing, Forensic Accounting, Fraud Investigation and Accounting, and Ethics.

Keywords: Lavado de Activos, Evasión Fiscal, Malversación, Evasión Fiscal, Responsabilidad del Contador, Ética.

Resumen

Objetivo: Este caso didáctico tiene como objetivo profundizar el conocimiento sobre los delitos de lavado de activos, malversación y evasión fiscal y fomentar la discusión en el aula sobre la responsabilidad y el dilema ético del contador frente a clientes que practican estos delitos.

Metodología: Basado en hechos ampliamente difundidos por la prensa, este caso didáctico incentiva la discusión centrada en la responsabilidad y el dilema ético del contador, considerando las disposiciones de la Ley 12.683/2012 (Ley de lucha contra el lavado de dinero) y 8.137/1990 (Delitos contra el sistema tributario), así como la Resolución CFC 1.530/17, utilizando como base la Teoría de la Elección Racional.

Resultados: Este caso didáctico permite a los estudiantes profundizar sus conocimientos sobre cómo identificar los delitos de lavado de dinero, malversación y evasión fiscal y fomentar la discusión en el aula sobre la responsabilidad y dilema ético del contador.

Contribuciones del Estudio: Se espera que el caso docente antes mencionado pueda ser utilizado en cursos de pregrado y/o posgrado (*stricto sensu y lato sensu*) en el área de Ciencias Contables o disciplinas afines: Auditoría Contable, Contabilidad Forense o Fraude, e Investigación y Contabilidad e ética.

Palabras clave: Ricardo Eletro. Máquina expendedora. Evasión de impuestos. Lavado de dinero. La responsabilidad ética del contador.

Resumo

Objetivo: Aprofundar conhecimentos sobre os crimes de lavagem de dinheiro, apropriação indébita e sonegação de impostos e fomentar a discussão em sala de aula sobre a responsabilidade e o dilema ético do contador ao se deparar com clientes que pratiquem esses crimes.

Metodologia: A partir dos fatos divulgados amplamente pela imprensa, este caso para ensino fomenta a discussão com foco na responsabilidade e no dilema ético do contador, considerando as disposições das Leis 12.683/2012 (Lei de combate à lavagem de dinheiro) e 8.137/1990 (Crimes contra a ordem tributária), bem como da Resolução CFC 1.530/17, utilizando como base a Teoria da Escolha Racional.

Resultados: Este caso para ensino permite aos discentes aprofundar seus conhecimentos sobre como identificar os crimes de lavagem de dinheiro, apropriação indébita e sonegação de impostos e fomentar a discussão em sala de aula sobre a responsabilidade e o dilema ético do contador ao se deparar com clientes que pratiquem esses crimes.

Contribuições do Estudo: Espera-se que este caso para ensino possa ser utilizado em cursos de graduação e/ou pós-graduação (*stricto sensu e lato sensu*) na área de Ciências Contábeis ou afins nas disciplinas: Auditoria Contábil, Perícia Contábil, Fraudes e Investigação e Contábil e Ética.

Palavras-chave: Lavagem de Dinheiro, Evasão Fiscal, Apropriação Indébita, Sonegação de Impostos, Responsabilidade do Contador, Ética.

Part I – The Case

1 Introduction

That morning in July 2020, while processing the news he had just heard on the car radio, Antônio was reflecting on his obligations as an accounting professional. Antônio is an experienced accountant who works for a medium-sized company that operates in the home appliance retail sector. While performing his duties, he came across evidence that the owner of the company he worked for was involved in illicit activities.

The announcer had just revealed the arrest of the founder of Ricardo Eletro in São Paulo to give testimony about his business in the “Direct with the Owner” operation. According to the task force composed of Civil Police, State Revenue and the Public Prosecutor's Office of Minas Gerais, the investigations indicated the occurrence of the following crimes: money laundering, embezzlement and tax evasion. Sweating nervously, Antonio wonders whether he, as an accountant working for the company under investigation, should report possible irregularities committed by the company owner. Doing so, would he be fulfilling his ethical and legal obligations, or would he be breaking professional secrecy by revealing information he had learned as a result of his work? On the other hand, Antonio feared that he would be held

responsible for the crimes which the company owner was being accused of if he decided not to cooperate with the investigations.

2. Case Context

The case under study addresses the episode of the arrest of the founder of the retail chain Ricardo Eletro, in July 2020. The investigations indicated that, between 2012 and 2019, an economic group was formed, controlled by Ricardo Nunes, which included the participation of family members with the association of companies represented by their relatives, which received suspicious loans and built-up extensive assets¹.

The investigations also revealed irregularities in the collection of the Tax on Circulation of Goods and Provision of Services (ICMS), since the group remained in debt to the treasury from 2012 to 2019, even though an accounting analysis of the financial information provided showed that the group owed the State of Minas Gerais more than it was informed. The State Treasury Department and the State Public Prosecutor's Office estimated that the loss to the public coffers could reach R\$400 million in state taxes over the five-year period².

"What is noticeable is the impoverishment of the company, which has practically reached bankruptcy, starting an extrajudicial recovery proceeding", said public prosecutor Fábio José dos Santos³, referring to the debt payment plan negotiated with creditors in 2019, especially with banks, and which did not include the renegotiation of tax debts that Ricardo Eletro had with state governments⁴.

"While the tax crimes were occurring, the main partner of the company (Ricardo Nunes) got rich by using shell companies to hide the increase in assets, directly or indirectly resulting from tax evasion, which constitutes money laundering," Santos added.

"There was a clear intention to hide the tax evading company's assets (Ricardo Eletro) in order to, once the criminal violations were confirmed, to hinder for the State of Minas Gerais to collect the tax debts", Santos said. According to the task force, the real estate assets were not owned by Ricardo Nunes, but by his daughters, mother and brother⁵.

The investigations aimed to determine whether part of the evaded money was used to acquire real estate and equity interests in commercial ventures. According to the prosecutor, the illicit profits from tax crimes were not transferred to the accounts of the main beneficiaries of the alleged scheme, but rather used to pay expenses, whether for the acquisition or renovation of real estate or the acquisition of shares in other companies. According to the prosecutor, one of the documents seized by the task force at the company's headquarters indicates that the

¹ <https://dcomercio.com.br/publicacao/s/de-empresario-modelo-a-alvo-da-pf-entenda-a-prisao-do-fundador-da-ricardo-eletro>.

² <https://dcomercio.com.br/publicacao/s/de-empresario-modelo-a-alvo-da-pf-entenda-a-prisao-do-fundador-da-ricardo-eletro>.

³ Os nomes de alguns personagens foram alterados.

⁴ <https://agenciabrasil.ebc.com.br/geral/noticia/2020-07/promotor-diz-que-ricardo-eletro-usa-sonegacao-como-politica-de-negocio>.

⁵ <https://g1.globo.com/mg/minas-gerais/noticia/2020/07/08/forca-tarefa-do-mp-e-receita-estadual-faz-operacao-de-combate-a-sonegacao-fiscal-e-lavagem-de-dinheiro-em-mg.ghtml>

company's money was used to purchase marble used in the renovation of a property in the building where Nunes lived in.

In this sense, at the request of the investigative bodies, the Inquiry Court of Contagem (MG) ordered in 2020 the seizure of R\$60 million in real estate assets attributed to Ricardo Nunes, to guarantee eventual compensation for losses to the Minas Gerais coffers. Regarding the collection of ICMS, according to the Contagem-MG Finance Department, the company has been failing to pay taxes for almost a decade. Even though the founder of the company, Ricardo Nunes, formally left the group in October 2019, there were indications that he continued to manage the business, so that the asset shielding's goal was to hide the economic benefit of the crimes.

Regarding tax evasion, it is characterized by the inclusion of the ICMS tax on the price of its products, without collecting the corresponding amount to the State coffers. It is worth noting that the company enjoyed tax benefits, with privileges in relation to its competitors, paying 5% to 10% of ICMS, much less than the usual 18%, and yet, it did not collect the amount of taxes to the public coffers.

3 Company History

Ricardo Eletro was founded by Ricardo Nunes in 1989 in the city of Divinópolis, Minas Gerais. Ten years later, in 1999, the company arrived in Belo Horizonte and began an expansion process. From 2002 onwards, it opened stores outside Minas Gerais, starting in Espírito Santo. In 2009, it launched its official e-commerce, offering more than 80,000 items, from tires to washing machines, from diapers to TVs⁶.

In addition to organic growth, the company adopted a strategy of growth through acquisitions. One of the first to join the portfolio was Mig stores, which had a strong presence in the Midwest.

In 2010, Ricardo Eletro merged with Insinuante, one of the largest retailers in the Northeast, owned by Luiz Carlos Batista from Bahia, forming a holding company called Máquina de Vendas. At that time, Máquina de Vendas was consolidated as the second largest retailer of furniture, home appliances and electronics in the country, followed only by Magazine Luiza.

The position was strengthened with the purchase of Eletro Shopping (retailer in the Northeast region), City Lar (retailer in the Midwest and North regions), and Salfer (regional retailer in the South), following only the Pão de Açúcar group (Casas Bahia, Ponto Frio and Extra Eletro), with Magazine Luiza in third place. Also in 2010, Ricardo Nunes had already been accused of paying a bribe to an auditor from the Brazilian Federal Revenue Service (RFB) to avoid being charged with tax evasion. In 2011, he was sentenced to 3 years and 4 months in prison in the first instance, for active corruption, as a result of this episode⁷. The businessman appealed the decision.

⁶ <https://www.bol.uol.com.br/noticias/2020/07/08/ricardo-eletro-nunes-fundador-quem-e-vendedor-de-mexericas-sonegacao-fiscal.htm>.

⁷ <https://exame.com/negocios/socio-da-maquina-de-vendas-e-condenado-a-prisao/>

At its peak in 2014, Máquina de Vendas reached almost R\$10 billion in annual sales, with 1,200 stores and 25,000 employees⁸. That year, Nunes, aged 44, owner of 50% of Máquina de Vendas shares, entered the list of billionaires according to “Forbes” magazine, with an estimated net worth of R\$1.52 billion⁹. In 2016, with the drop in the market value of Nunes' companies, he was no longer on the list.

However, with difficulties in generating synergies and with the increase in competition in the digital market, the holding's revenue fell by around 40% between 2015 and 2017, falling to R\$6 billion, with 650 stores and 13 thousand employees.¹⁰ As a result, in mid-2017 the partnership was ended and Máquina de Vendas decided to focus the operation solely on the Ricardo Eletro brand, with the aim of unifying leadership and optimizing its e-commerce operations.

Due to the company's restructuring, Ricardo Nunes, the retailer's founder and his family members were no longer part of the group's majority shareholders and management in 2019. To renew management and try to recover the company, the Starboard fund acquired 72.5% of the company for R\$250 million. The North American fund is specialized in corporate recovery and has appointed members to the board of directors in addition to the president, Luiz Wandall, who took over from founder Ricardo Nunes.

In 2020, the company began to draw a new plan for the business, hired new directors for divisions such as marketing and technology and started the WhatsApp sales program.

4 Dilemma and Case Closure

The arrest of Ricardo Nunes was a major blow to the image of the company and to the construction of leadership in the market, especially at a time when sustainable governance practices were growing in the corporate world¹¹.

After founder Ricardo Nunes left the business on the brink of bankruptcy, Ricardo Eletro had to close all stores and keep only its e-commerce. But the problems did not end there. In 2022, the Judiciary declared the company's bankruptcy three times, all of which were later reversed. In one of these cases, the company was forced to stop the operations for 45 days. At that time, Ricardo Eletro's debt to creditors reported in the judicial recovery was around R\$4 billion¹².

In August 2020, Máquina de Vendas filed a lawsuit with the 1st Bankruptcy and Judicial Recovery Court of the Central Court of the District of São Paulo/SP, requesting judicial protection against bankruptcy, when it closed its last 300 stores and continued only the e-commerce. The case was then considered the largest judicial recovery plan in the history of

⁸ <https://valor.globo.com/empresas/noticia/2022/06/10/relembre-a-historia-da-ricardo-eletro-de-2a-maior-varejista-do-brasil-a-falencia.ghtml>.

⁹ <https://economia.uol.com.br/noticias/redacao/2014/09/05/apenas-20-bilionarios-brasileiros-tem-menos-de-50-anos.htm>.

¹⁰ <https://valor.globo.com/empresas/noticia/2022/06/10/relembre-a-historia-da-ricardo-eletro-de-2a-maior-varejista-do-brasil-a-falencia.ghtml>.

¹¹ <https://www.moveisdevalor.com.br/porta/especialista-aponta-os-7-erros-na-gestao-da-ricardo-eletro>

¹² <https://www.infomoney.com.br/negocios/ricardo-eletro-reverte-falencia-e-pode-ser-inspiracao-para-americanas/>.

retail, and included liabilities of approximately R\$4.8 billion and approximately 20 thousand creditors¹³.

In November 2020, Ricardo Eletro's founder Ricardo Nunes was indicted, along with the Director Pedro Daniel Magalhães, by the Public Prosecutor's Office of Minas Gerais (MP/MG) for misappropriation of R\$14 million by failing to collect the state tax authorities the corresponding amount of ICMS charged to customers, between 2012 and 2017¹⁴.

In December 2020, they (Nunes and Magalhães) were the target of a new complaint, referring to the period from May 2016 to November 2019, for tax evasion of approximately R\$120 million.

In June 2022, the businessman and the Director were indicted by the Public Prosecutor's Office of Minas Gerais again, on suspicion of tax evasion of R\$86 million, in the period between June 2016 and May 2018¹⁵.

Now Antônio, the accountant working for Ricardo Eletro, was facing an ethical dilemma, as he wondered whether he should report the crimes that the company's founder may have committed.

Brazilian anti-money laundering legislation (Law 9,613/1998, later amended by Law 12,683/2012) defined the crime of money laundering as “concealing or disguising the nature, origin, location, disposition, movement or ownership of assets, rights or values derived from crimes”.

However, the same legislation that had defined the crime of money laundering established the obligation for companies and professionals in specific sectors, including accounting professionals, to inform regulatory agencies the occurrence of financial transactions that present clues to crime committing.

Antonio's story is emblematic, as it reflects a common situation in accounting practice and requires accounting professionals to adopt an ethical and responsible professional stance. When faced with suspicions that fraud and other irregularities have occurred in a company, the accountant must be aware of his ethical and legal obligations and consider all the possible consequences of his decisions.

In this scenario, where there is the possibility that accounting fraud and other crimes have been committed, Antônio, the accountant working for Ricardo Eletro, found himself facing a dilemma: should he or should he not report any accounting fraud or other crimes that may have been committed, if he had become aware of them because of his profession?

Part II - Teaching Notes

1 Educational Objectives and Target Audience

This teaching case was developed with the aim of fostering debate based on a real situation of suspected tax and financial crimes, such as tax evasion, embezzlement, concealment of assets and money laundering, by a company in the retail sector in Brazil. Thus, this teaching

¹³ <https://dcomercio.com.br/publicacao/s/ricardo-eletro-apresenta-o-maior-plano-de-recuperacao-judicial-do-varejo>.

¹⁴ <https://g1.globo.com/mg/minas-gerais/noticia/2022/06/14/fundador-da-ricardo-eletro-e-denunciado-mais-uma-vez-agora-por-sonegacao-de-r-86-milhoes.ghtml>.

¹⁵ <https://economia.uol.com.br/noticias/redacao/2022/06/10/quem-e-ricardo-nunes-fundador-da-ricardo-eletro.htm>

case was inspired by the episode experienced by Ricardo Eletro's company founder, Ricardo Nunes, who was preventively arrested in July 2020, accused of committing the crimes mentioned above.

The dilemma of this teaching case involves the debate of the ethical dilemmas in the accounting professional, based on a common situation in accounting practice, which requires an ethical and responsible professional stance. Therefore, in order to fulfill the proposed objective, the recommendation is to use this teaching case in undergraduate and/or graduate programs (*stricto sensu* and *lato sensu*) in Accounting Sciences or related subjects in the following courses: Accounting Auditing, Accounting Expertise, Ethics and/or Fraud and Accounting Investigation.

The main focus of this teaching case is on the responsibility and ethical dilemmas faced by accountants, considering the provisions of Laws 12.683/2012 (Law to combat Money Laundering), 8.137/1990 (Crimes against the tax system), as well as CFC Resolution 1.530/17 and the Theory of Rational Choice (Serva, 1997; Margoto, Behr & Paula, 2010; Ayal & Gino, 2011; Lima & Gonçalves, 2020). In view of the above, the purpose of this teaching case is to:

- a. To deepen knowledge about money laundering and crimes against the tax system, focusing on aspects related to the accountant's responsibility according to the Anti-Money Laundering Law (Law 9.613/98 and amendments) and CFC Resolution 1,530/17);
- b. To discuss concepts related ethical dilemmas faced by accountants in light of CFC Resolution 1,530/17 and the Theory of Rational Choice (Serva, 1997; Margoto, Behr & Paula, 2010; Ayal & Gino, 2011; Lima & Gonçalves, 2020);
- c. To develop skills such as critical reasoning, communication, creativity, argumentation, strategy formulation and problem-solving.
- d. To develop study and learning methods through group debate with the application of theoretical knowledge and argumentation.
- e. Develop the analytical capacity of students and other professionals in the accounting field through the discussion of a teaching case, to apply the knowledge in future practical situations.

To make better use of this teaching case, it is recommended previously reading the legislation related to money laundering (Law 9,613/1998 and amendments), crimes against the tax system, financial crimes and crimes against the consumer (Law 8.137/1990), CFC Resolution 1.530/17 and the suggested material on the Theory of Rational Choice (Serva, 1997; Margoto, Behr & Paula, 2010; Ayal & Gino, 2011; Lima & Gonçalves, 2020).

2 Data Sources

This teaching case was inspired by the episode experienced by Ricardo Eletro's company founder, Ricardo Nunes, who was preventively arrested in July 2020, accused of tax and financial crimes, such as tax evasion, embezzlement, concealment of assets and money laundering. This teaching case was prepared based on news and documents available on websites listed in the references.

3 Teaching Plan Proposal

The proposal for developing this teaching case includes approximately 0.5 hours of additional (extra-class) time and 3.5 hours of classroom time, which can be arranged as follows:

a) In the class prior to the application of this teaching case, the Professor must make the material available for students to read in advance. Reading time: 30 minutes.

b) In the classroom, the Professor must, at the beginning of the class, summarize the case, listing the main points of attention of what happened at Ricardo Eletro in 2020. Presentation time: 20 minutes; c) Afterwards, the Professor should present reflections, in free format, on the ethical dilemmas faced by accountants in a situation similar to that experienced by the fictional character Antônio, as well as the accountant's responsibility according to the law to combat money laundering (Law 9,613/98 and amendments), CFC Resolution 1,530/17 and the Theory of Rational Choice, listing the main topics and highlighting the essential topics. It is suggested to use succinct and visual slides for this approach. Presentation time: 20 minutes.

d) After that, the Professor should ask the students to divide into groups of 3 or 4 students, to discuss the dilemmas presented and answer the questions proposed in this teaching case. Execution time: 1 hour.

e) Following that, each group should choose a representative to present the answers to each question proposed. Execution time: 1 hour.

v) Finally, the Professor must perform a general assessment of the class's performance, listing the main strengths and the main areas for improvement, both in theoretical terms and in the didactic, argumentative, expository and persuasive aspects of each student. Assessment time: 20 minutes.

It is worth mentioning that, if the Professor considers it necessary, he/she may provide additional materials for the students to study, indicating, for example, additional references.

Finally, it is worth highlighting that the proposal made previously is merely illustrative and optional, and it is up to the Professor to judge the use of the teaching-learning procedures previously suggested, considering aspects such as the number of students in the classroom and the students' skill to carry out the proposed activities.

4 Discussion Questions

1) What crimes were attributed to Ricardo Eletro's founder, Ricardo Nunes? Explain how these crimes occurred, according to the task force's report.

The purpose of the first question proposed is to introduce the student to the topic in question, to lead him/her to understand and differentiate the various crimes of which Nunes was accused, allowing the central points to be addressed in the following questions. Therefore, it is suggested that the discussion begin only by differentiating between the crimes, leaving the main discussions on the relationship between money laundering and the accountant's responsibility to be addressed in greater depth later.

According to the task force investigating the case, there was a suspicion that Ricardo Nunes was committing tax and financial crimes, such as tax evasion, embezzlement, concealment of assets and money laundering.

Law 8,137/1990, which deals with crimes against the tax system, financial crimes and crimes against the consumer, establishes that tax evasion occurs when the taxpayer persistently and with intent to embezzle, fails to collect the tax (in this case, ICMS), charged from the purchaser of the goods or service to the public coffers, as this teaching case develops.

The relevance of this legal provision lies in its ability to differentiate between mere tax default and the willful misappropriation of tax amounts that, by law, should be collected to the tax authorities. The distinction is important because, while tax default may result from several factors, including financial difficulties, misappropriation presupposes an intentional action by the agent not to collect to the public coffers what rightfully belongs to the treasury, thus constituting a criminal offense.

Tax evasion is an intentional conduct that aims to omit tax information from the public administration regarding a taxable event that gave rise to the fulfillment of an obligation (payment of tax), for example, not issuing an invoice to evade payment of ICMS (tax on circulation of goods) or ISSQN (tax on services of any nature). Another conduct classified as a crime against the tax system is misappropriation of funds, which occurs when the taxpayer has a legal obligation to withhold taxes or social contributions that should be paid to the tax authorities but fails to do so within the legal deadline. The most common scenario for this illegal conduct is when Social Security Contributions (INSS) are charged by employees, and the amount charged is not collected to the Federal Revenue Service. However, in this teaching case, the crime of misappropriation of ICMS was committed.

For the misappropriation crime to be configured, it is enough that the agent fails to collect the amount consciously, that is, with general intent. It is not necessary to prove the intention to cause harm to the public coffers, that is, specific intent.

According to the task force that investigated the facts reported in this teaching case, there is evidence that farms and other properties were not owned by the person under investigation, but rather owned by his family, who were also targets of the operation. According to article 1 of Law 9,613/98, money laundering crimes occur when concealment of assets, rights and values aims to conceal or disguise the nature, origin, location, disposition, movement or ownership of assets, rights or values originating, directly or indirectly, from a crime, from the public administration or from the national financial system.

During the same period in which tax crimes against the State of Minas Gerais were committed, there was a vertiginous growth in individual assets of the subjects, which, for the task force, constitutes money laundering. In general terms, money laundering is the process by which individuals transform resources originating from illicit activities into assets of apparently licit origin.

In this teaching case, the task force that investigated the reported facts, money laundering crimes of illicit origin (such as tax evasion and embezzlement) were committed, and that illicit money was used to purchase assets registered in the name of relatives of the company owner, also known as “front men”.

2) According to prosecutor Fábio José dos Santos, the task force is investigating the occurrence of money laundering, among other financial crimes may have been committed. Considering the concepts of Law 12,683/2012, could the Ricardo Eletro case constitute money laundering? Justify your answer based on the reported case and the definition of money laundering and identify the three phases of money laundering.

The purpose of the second question is to encourage students to deepen their knowledge of the provisions of Law 9,613/1998, later amended by Law 12,683/2012 (Money Laundering Law), helping them to identify signs of a crime in situations like those experienced by the fictional character Antônio.

According to Article 1 of Law 9,613/1998, money laundering or concealment of assets, rights and values is to conceal or disguise nature, origin, location, disposition, movement or ownership of assets, rights or values originating, directly or indirectly, from a crime against the public administration or against the national financial system.

The money laundering crime is characterized by a set of commercial or financial operations that seek to incorporate resources, assets and values of illicit origin, such as robbery, kidnapping, trafficking, smuggling, tax evasion, corruption and terrorism, into a country's economy, temporarily or permanently. Many of these operations involve, actively or passively, business organizations, non-profit civil society organizations or government organizations, individually or in consortiums (Jung, 2007).

The money laundering crime generally occurs in three distinct stages: (i) placement; (ii) layering; and (iii) integration.

In the first stage, money of illicit origin enters a legitimate financial institution, usually through bank deposits. Placement is the riskiest phase of the laundering process, as it occurs in large volumes of easily identifiable money. Furthermore, according to Circular Letter 4,001 Bacen of 01/29/2020, financial institutions are required to report to the Financial Activities Control Council (COAF) operations that indicate evidence of money laundering or tax evasion (Sallaberry *et al.*, 2020).

In the second stage, money goes through several financial transactions in order to make it difficult to track. Layering can consist of multiple bank transfers between different accounts; between different beneficiary names or different countries; involving deposits and withdrawals of different amounts; through foreign exchange transactions; or even through the purchase of high-value items such as luxury vehicles, real estate, jewelry, etc. (Sallaberry *et al.*, 2020).

After layering, the money returns to the country of origin in a legitimate way, with the appearance of a legal transaction. Integration can occur through: (i) a final bank transfer to the account of a company or enterprise, simulating an investment; (ii) a sale of a luxury good acquired in the layering stage; or even through the acquisition of cattle or other assets (Sallaberry *et al.*, 2020). According to the task force that investigated the facts reported in this teaching case, money was being laundered from illicit sources (such as tax evasion and embezzlement), which were used to purchase assets owned by relatives of the company's founder, which, according to Law 12,683/2012, constitutes money laundering crime. Also, according to the task force, there is evidence that farms and other properties were not registered in the name of the person under investigation, but rather in the name of people in his family, who were also targets of the operation. This fact may occur during the third stage of money laundering, that is, integration.

According to the task force, another fact that may constitute evidence of money laundering was the accelerated growth in the individual assets of Mr. Ricardo Nunes, which may also occur during the third stage of money laundering, that is, integration.

Thus, by hiding or disguising the origin of assets, rights and values that come directly or indirectly from a crime against the national financial system, as occurs in the case of tax evasion, money laundering crime is also committed. Thus, according to the task force's investigations, there is evidence that money laundering crime was occurring in the Ricardo Eletro case.

3) What are the main ethical and legal obligations of the accountant if suspected fraud or accounting irregularities are happening in a company, as occurred in the case of Ricardo

Eletro, according to Laws 12,683/2012 and 8,137/1990?

The objective of the third proposed question is to encourage students to deepen their knowledge and reflect on the obligations of accounting professionals in a situation similar to that experienced by the fictional character Antônio. To this end, it is suggested that the discussion begin by presenting the provisions of Law 9,613/1998, later amended by Law 12,683/2012, focusing on the obligations of accounting professionals to inform COAF of suspicious transactions, as well as the consequences that professionals may suffer if they do not report financial transactions that show signs of crime.

Created in 1998 by the same Law that initially defined money laundering crimes in Brazil, Law 9,613/1998, the Financial Activities Control Council (COAF), an agency that is part of the Ministry of Economy, is responsible for financial intelligence and the protection of economic sectors against money laundering crimes and terrorist financing in Brazil. Law 9,613/1998 and its amendments are based on the principles of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, also known as the Vienna Convention, of 1988, which established that signatory countries must adopt measures to classify as a crime money laundering or concealment of assets originating from drug trafficking (Sallaberry *et al.*, 2020).

To fight the increase of money laundering crimes, the agencies responsible for controlling financial activities in Brazil drafted Law 9,613/1998 and later Law 12,683/2012, which significantly amended the old Money Laundering Law. This law excluded crimes prior to money laundering and increased the list of people required to report suspicious transactions to COAF, including accounting professionals who provide advisory, consulting, bookkeeping, auditing, counseling or assistance services of any nature. The main objective of this inclusion was to increase oversight so that those involved in criminal schemes do not find the possibility of moving illegal money (Sallaberry *et al.*, 2020).

In other words, with the approval of Law 12,683/2012, a series of responsibilities were included for accountants (and other professionals), with the aim of combating money laundering, among which the following stand out:

- a) Register with the regulatory or supervisory body and, in the absence of such, with the Financial Activities Control Council (COAF).
- b) Comply with requests made by COAF within the frequency, form and conditions established by it.
- c) Report to COAF, in complete confidentiality and within 24 hours, any proposal or execution of monetary or asset transactions that exceed the limit set by the competent authority or that contain “serious indications” of money laundering.

Among the professionals required to report suspicious transactions by their clients are accountants, whether accounting professionals or accounting enterprises, who provide auditing, consulting, advisory services, among others, even if occasionally. Accountants who fail to comply with legal procedures will be subject to sanctions ranging from warnings, fines, and even loss of the right to practice their profession (CFC, 2018).

Therefore, accountants are criminally liable from the moment they decide to join forces with taxpayers to promote the falsification of documents or commit other irregularities in bookkeeping, with the aim of evading taxes.

Badaró and Bottini (2016) emphasize that accounting professionals may be held liable for advising or collaborating in the concealment of a crime committed by their clients, in

addition to possible participation in: (i) moral crimes, when an agent leads another to commit a crime by suggesting or recommending that their client conceal assets; and (ii) material crimes, when there is complicity of the accounting professional in the practice of the crime, characterized by the knowledge that the client is carrying out an illegal activity, and the accounting professional assists the client in those crimes.

In this same sense, Law 8,137/1990 (Crimes against the tax system, financial crimes and crimes against the consumer) establishes as tax crimes the supply or reduction of taxes, the omission of information, the provision of false statements and fraud against tax inspections, through the insertion of inaccurate elements or omission of operations of any nature, in a document or book required by tax law.

Law 8,137/1990 also establishes that any person who contributes in any way to crimes against the tax system must be penalized according to the guilt attributed to the fact that gave rise to the illegality. Thus, the accountant professional who contributes to tax crimes may be penalized with imprisonment of two to five years and, in certain cases, may have his professional registration revoked.

4) “Sweating nervously, Antonio wonders whether he should report the possible irregularities committed by the company owner, whether he would be fulfilling his ethical and legal obligations, or whether by doing so he would be breaking professional secrecy by revealing information he had learned because of his work. On the other hand, Antonio feared being held responsible for the crimes the company owner was being accused of if he decided not to cooperate with the task force investigating the case.”

The above excerpt from the case reveals a dilemma that any accountant professional may face if given access to information resulting from their professional activities and, therefore, being faced with the question – is it a duty to report or to maintain professional secrecy? Considering the Theory of Rational Choice, what decision would you make?

The purpose of the fourth question is to refer the student to the decision related to the ethical field considering the Theory of Rational Choice under the focus of instrumental rationality (ethics of responsibility) and/or substantive rationality (ethics of conviction) (Serva, 1997; Margoto, Behr & Paula, 2010; Ayala & Gino, 2011; Lima & Gonçalves, 2020).

For Margoto, Behr & Paula (2010, p.121) “the organizational environment ends up being constantly marked by a tension between ethics, that is, between instrumental and substantive rationalities”.

In this sense, the decision regarding the duty to report or maintain professional secrecy must be discussed considering the rationalities mentioned above: instrumental (ethics of responsibility) or substantive (ethics of conviction).

According to Serva (1997, p. 22), “instrumental rational action and its constituent elements” are defined based on the following elements: “action based on calculation, oriented towards achieving technical goals or purposes linked to economic interests or social power, through the maximization of available resources”.

In this sense, Margoto, Behr & Paula (2010, p. 120) state that in instrumental action the individual has a “[...] calculating focus, on ends, maximization of resources, the search for success and results, the attempt to achieve the best individual performance, utility, profitability and a type of interpersonal strategy that would aim to anticipate the behaviors and reactions of other people”. On the other hand, there is action under the focus of substantive rationality,

which is governed in two directions – individual and social (Serva, 1997; Margoto, Behr & Paula, 2010).

For Margoto, Behr & Paula (2010, p. 120) substantive action from an individual perspective “would be linked to issues of self-realization, the search for satisfaction and the achievement of the subjects’ potential”, while the social perspective “[...] would also reflect the concern with social responsibility and satisfaction”, in which both, according to Serva (1997, p. 22), are characterized by self-realization, understanding, ethical judgment, authenticity, emancipatory values and autonomy. Also, according to Lima & Gonçalves (2020, p. 147) substantive rationality “would constitute the basis of ethical and responsible human life”.

According to Souza (2003 *apud* Lima & Gonçalves, 2020, p. 149), substantive rationality should be interpreted as the “manifestation based on the intrinsic merit of the values that inspire it, with a high ethical content and guided by a transcendent criterion”, while “instrumental rationality refers to the degree of accuracy with which ends are achieved, and is thus based on calculation and the cost/benefit relationship”.

Therefore, in the scenario presented, the aim is for the student (future accounting professional) to present his/her arguments based on the Theory of Rational Choice, that is, what decision would he/she make regarding the fulfillment of his professional duty - to report or to maintain professional secrecy?

5) Considering the context presented in the previous question, Law 12,683/2012 and the ethical issues imposed by the Code of Professional Accounting Ethics, would you maintain the decision made (duty to report vis a vis maintaining professional secrecy)? Furthermore, considering the current legislation, would there be a need for improvement?

The objective of the fifth question proposed is to encourage students to delve deeper into the ethical issues related to the obligation to report suspicious transactions to COAF, imposed by Law 12,683/2012, in contrast to the ethical issues imposed by the Code of Ethics for Accounting Professionals and the literature considering the Theory of Rational Choice (Serva, 1997; Margoto, Behr & Paula, 2010; Ayal & Gino, 2011; Lima & Gonçalves, 2020).

According to Law 12,683/2012, accounting professionals are obliged to help preventing money laundering and other related crimes, otherwise they will be at risk of being held criminally liable for those crimes.

In this sense, aiming to protect accountants from the improper use of their services for illicit acts, in addition to the risks to their image due to the association of their name with criminal organizations, the Federal Accounting Council (CFC) issued CFC Resolution 1,445/2013, as a result of a long discussion among members of the Commission for the Defense of the Rights and Prerogatives of the Accounting Professional, composed of representatives of the CFC, the Regional Accounting Councils (CRCs), Fenacon and Ibracon (CFC, 2013).

Subsequently, CFC Resolution 1,530/2017 was issued, which instructs company accountants and independent auditors to report to the competent authorities when they identify, in their professional activities, deviations from laws and regulations, such as corruption practices, money laundering and tax evasion (CFC, 2017).

Resolution 1,530/2017, which was based on an international standard known as NOCLAR (Non-Compliance with Laws and Regulations), became mandatory to report any type of unlawful act made by the client (CFC, 2017).

And, according to the CFC (2018), accounting professionals must make sure their clients are aware of the purposes of Law 12,683/2012 and Resolution 1,530/2017 and include a clause in service provision contracts, establishing the rights and duties of accounting professionals and organizations in their relationship with their clients, highlighting the obligation to comply with the legislation. Although there is a line of thought among accounting professionals that invokes the ethical principle of confidentiality to maintain client secrets, even if related to illegal acts (Kraemer, 2009), the NBC PG 100/2014 standard, which highlights professional confidentiality as an explicit ethical principle, does not make it an absolute precept (Sallaberry & Flach, 2019).

Therefore, the CFC emphasizes that even though confidentiality, zeal, diligence and honesty established in the Code of Ethics for Accounting Professionals (CEPC) remain as a principle, exceptions are made for cases provided for by law. Thus, the provisions of the CEPC do not, in theory, exempt the communication provided for in Law 12,683/2012 (CFC, 2018).

For comparison purposes only, the Code of Ethics and Discipline of the Brazilian Bar Association establishes in its article 26 that “[a] lawyer must maintain confidentiality, even in court testimony, regarding what he/she knows due to his/her professional activities, and lawyers may refuse to testify as witness in proceedings in which he/she has served or should serve, or regarding a fact related to a client, even if authorized or requested by the constituent”. Thus, for professionals in the legal field, from an ethical point of view, it is necessary to preserve confidentiality due to their professional activities.

Also, according to the CFC, accounting professionals and organizations are not investigators or whistleblowers of transactions carried out by their clients. Communications, when made, are information protected by confidentiality and do not constitute complaints (CFC, 2018).

However, before reporting any illegal act, the CFC advises accounting professionals to ensure that the suspicious act was intentional. Therefore, the CFC recommends that before taking any action, the accounting professional first contacts the client as a preventive measure, to inform them of the problem detected so that, if no malicious action on the part of the client is confirmed, they can find ways to rectify or remedy the failure. On the other hand, if the intentional intent is confirmed, it is necessary to forward the communication on the CFC portal and, in case of doubts corresponding to the report, the accountant should seek the assistance of a lawyer to help proceed with the case (CFC, 2018).

Referências

- Ayal, S., & Gino, F. (2011). Honest rationales for dishonest behavior. *The social psychology of morality: Exploring the causes of good and evil*, 149-166. (DOI: 10.1037/13091-008)
- Badaró, G. H.; & Bottini, P. C. (2016). *Lavagem de dinheiro: aspectos penais e processuais penais: comentários à Lei 9.613/1998, com as alterações da Lei 12.863/2012*. São Paulo: Editora Revista dos Tribunais.

Conselho Federal de Contabilidade - CFC (2013). Resolução CFC nº 1.445, de 26 de julho de 2013, dispõe sobre os procedimentos a serem observados pelos profissionais e Organizações Contábeis [...]. Brasília, DF.

Conselho Federal de Contabilidade - CFC (2017). Resolução CFC nº 1.530, de 22 de setembro de 2017, dispõe sobre os procedimentos a serem observados pelos profissionais e Organizações Contábeis [...]. Brasília, DF.

Conselho Federal de Contabilidade - CFC (2019). CEPC ética. Disponível em <https://cfc.org.br/tecnica/normas-brasileiras-de-contabilidade/nbc-pg-geral/>. Acesso em: 15 out. 2022.

Costa, G. G. (2007). O tipo objetivo da lavagem de dinheiro. Lavagem de dinheiro: comentários à lei pelos juízes das varas especializadas em homenagem ao Ministro Gilson Dipp. Porto Alegre: Livraria do Advogado.

Jung, L. W. (2007). Lavagem de dinheiro e a responsabilidade do contador. *Revista Catarinense da Ciência Contábil*, 6(17), 39-54. (DOI: <http://dx.doi.org/10.16930/2237-7662/rccc.v6n17p39-54>)

Lima, R. S., & Gonçalves, A. de O. (2020). Racionalidade Substantiva em Unidades de Perícia Criminal Federal Contábil-Financeira. *Revista Brasileira de Ciências Policiais*, 11(2), 141-163. DOI: 10.31412/rbcp.v11i2.597.)

Kraemer, M. E. P. (2009). Ética, Sigilo e o Profissional Contábil. *Contabilidade Vista & Revista*, 12(2), 33-48.

Lubas, K. M., Marques, D. A. R., Sallaberry, J. D., & Santos, E. A. (2021). Discussões Conceituais e Éticas sobre Lavagem de Dinheiro nos Cursos de Ciências Contábeis. *Revista Brasileira de Contabilidade*.

Margoto, J. B., Behr, R. R., & Paula, A. P. P. D. (2010). Eu me demito! Evidências da racionalidade substantiva nas decisões de desligamento em organizações. *Organizações & Sociedade*, 17, 115-135. (DOI: <https://doi.org/10.1590/S1984-92302010000100007>)

Sallaberry, J. D., & Flach, L. (2019). Percepção do Profissional Contábil sobre Operações Suspeitas de Lavagem de Dinheiro. In: *45th World Continuous Auditing & Reporting Symposium*.

Sallaberry, J. D., da Silva, R. D. O., Prates, A., & Flach, L. (2020). Contabilidade e a lavagem de dinheiro: revisão da literatura científica brasileira. *RAGC*, 8 (33).

Ramos, M. O., Gomes, H. O., & Silva, M. V. D. D. C. (2018). A contabilidade do crime no Brasil: Avanços e desafios. *Revista Evidenciação Contábil & Finanças*, 6(2), 81-94. (DOI:10.18405/recfin20180205)

Serva, M. (1997). A racionalidade substantiva demonstrada na prática administrativa. *Revista de administração de empresas*, 37, 18-30. (DOI: <https://doi.org/10.1590/S0034-75901997000200003>).