

PACE UNIVERSITY SCHOOL OF LAW

PROFESSIONAL RESPONSIBILITY
PROFESSOR HUMBACH
FINAL EXAMINATION

December 15, 2009
TIME LIMIT: 3 HOURS

IN TAKING THIS EXAMINATION, YOU ARE REQUIRED TO COMPLY WITH THE SCHOOL OF LAW RULES AND PROCEDURES FOR FINAL EXAMINATIONS. YOU ARE REMINDED TO PLACE YOUR EXAMINATION NUMBER ON EACH EXAMINATION BOOK AND SIGN OUT WITH THE PROCTOR, SUBMITTING TO HIM OR HER YOUR EXAMINATION BOOK(S) AND THE QUESTIONS AT THE CONCLUSION OF THE EXAMINATION.

DO NOT UNDER ANY CIRCUMSTANCES REVEAL YOUR IDENTITY ON YOUR EXAMINATION PAPERS OTHER THAN BY YOUR EXAMINATION NUMBER. ACTIONS BY A STUDENT TO DEFEAT THE ANONYMITY POLICY IS A MATTER OF ACADEMIC DISHONESTY.

GENERAL INSTRUCTIONS:

This examination consists of 32 multiple-choice questions and 8 short-answer essay questions based on 4 fact situations. Answer the multiple choice questions on the Scantron and, if you are not using SecureExam, answer the essay questions in the spaces indicated. **If you use the SecureExam system**, answer the essay questions in your SecureExam submission, making sure all answers are *in numerical order* (1 to 8) and *clearly numbered*.

There is no official space limit, and you may continue answers on the back of the page (**clearly numbered**). However if you exceed the allotted space (about 9 or 10 lines for Secure Exam) you are probably including irrelevant information and losing time.

Each short-answer essay question will have roughly equal weight. Half your score will be based on the multiple-choice questions and half on the short-answer essays.

Important note: If you are using SecureExam and *any part* of your answers is written in a Bluebook or otherwise has been placed in the large brown envelope collected by the proctors, *be sure to write "contains answers" conspicuously on the front of the*

*envelope and make sure the answer material is **conspicuously placed** in the envelope.* Failure to do so may mean that material in the brown envelope will not be graded.

LIMITED PERMITTED MATERIAL:

The **only** material you may bring into the examination is your copy of your assigned *Standards, Rules and Statutes* book (Dzienkowski, or Gillers & Simon), **provided it is not marked except as allowed below.**

Allowable markings: Your copy of the *Standards, Rules and Statutes* book may be highlighted, underlined, tabbed and annotated with **brief** notations, but **"no paragraphs,"** no bits of outlines and no sentences or sentence fragments exceeding a few words or so on the margins, backs, etc. of the printed material. *All materials brought into the examination will, in fairness to all, be subject to inspection, and students who are deemed to have violated this rule will have the material in question taken away, and they will be unable to refer to it during the examination.* A determination by me that you have exceeded the letter or spirit of this "limited marking" rule will be final, so *if in doubt, tear it out.*

Unless otherwise indicated, answer these multiple-choice questions by picking the *best* answer. Assume that the applicable ethical rules are the Model Rules as currently promulgated by the American Bar Association.

Important: If all but one of the answers are true and only one of them is false, then the “correct” answer is the one that is false. In such a case, *you should select the false one as your answer.*

1. Reynolds is a tax attorney who has handled nothing but tax matters since graduating from law school. He has never done real estate work. He has just been asked by a friend to represent him in a zoning matter. Reynolds may take on this representation:
 - a. Only if he associates with another lawyer who is experienced in zoning.
 - b. Without special training in the area, but only if he is recently admitted to the bar.
 - c. If competence in the area can be achieved by reasonable preparation.
 - d. None of the above. Reynolds may not take on this representation.
2. In preparing for a robbery trial, Tara Featherstone obtained a surveillance tape from a shoe store near the scene of the crime. According to the date and time “stamp” on the tape, it shows her client inside the store at the time of the robbery, which had taken place out in the street. In fact, the time “stamp” is apparently wrong, and her client has admitted confidentially that he committed the robbery. Now her client wants Tara to introduce the tape and, also, he wants her to put him on the stand to testify that he was in the shoe store “at the time of the robbery.” As the ethical rules are generally understood:
 - a. She should neither introduce the tape nor let her client testify that he was in the shoe store “at the time of the robbery.”
 - b. She should introduce the tape but not let her client testify that he was in the shoe store “at the time of the robbery.”
 - c. She should not introduce the tape, but she should let her client testify that he was in the shoe store “at the time of the robbery.”
 - d. She should both introduce the tape and let her client testify that he was in the shoe store “at the time of the robbery.”
3. Turner is a partner in a medium-sized law firm. Reports have come to his attention that one of the firm’s young associates, Fasman, has been seen out carousing and drinking until 3 and 4 o’clock in the morning, including on weeknights. Fasman sometimes arrives at work a little bleary-eyed, but he has made no serious mistakes.
 - a. Turner should immediately re-assign Fasman to *pro bono* cases and avoid the risk that he will make a mistake affecting a paying client.
 - b. Turner is ethically responsible for his own conduct, but he has no ethical responsibility for the professional conduct of Fasman.
 - c. Turner needs to make reasonable efforts to put measures into effect that will provide reasonable assurance that Fasman is providing competent representation.
 - d. As a partner in the firm, Turner is subject to discipline for any of Fasman’s mistakes, just as though he committed them himself.
4. Suppose that, in the preceding question, Fasman makes a serious legal blunder in drafting a document for a closing. The mistake costs a client substantial money. For this one mistake:

- a. Chances are good that Fasman will be professionally disciplined.
 - b. Fasman might be subject to malpractice liability but there is not a great likelihood that he will be professionally disciplined.
 - c. Chances are good that he will be subject to malpractice liability well as professional discipline.
 - d. It is not likely that he would be professionally disciplined nor would this be an appropriate kind of situation for imposing malpractice liability.
5. It is sometimes said that the practice of law is a profession. Several reasons have been given why this is so. Among them are (remember, if only one answer is false, then chose that one):
- a. The rules that lawyers must follow are enacted and enforced by the lawyers' own professional associations, such as the American Bar Association.
 - b. Lawyers utilize specialized skills and are required to have extended training.
 - c. Lawyers are expected to act in a spirit of public service or, at least, in devotion to serving the needs of their clients.
 - d. Lawyers are responsible as fiduciaries to whom, as a matter of practical necessity, clients must entrust their affairs, leaving many important decisions to the lawyer's independent judgment.
6. The inherent power of courts to regulate the practice of law:
- a. Derives from the judicial power to operate the courts and, in particular, to determine who is permitted to appear in court as an attorney.
 - b. Derives in most states from a legislative enactment.
 - c. Applies only so long as it has not been legislatively pre-empted by conflicting statutes.
 - d. Is essentially a fiction designed to enhance the status of law as a "profession."
7. Amber had a real estate client named Dives. Using confidential information about Dives, Amber secretly went into business with another client, Swumboll, in competition with Dives. If Amber is to be disciplined for this conduct:
- a. She is constitutionally entitled to receive notice and a hearing before sanctions are imposed.
 - b. Possible disciplinary measures would normally include disbarment, suspension, public or private censure and malpractice-type damages.
 - c. Both of the above.
 - d. She might be expelled from the American Bar Association and, as a result, be unable to practice law.
 - e. All of the above.
8. The purposes of disciplinary sanctions for professional misconduct are generally viewed to include:
- a. Protecting the integrity of the legal system.
 - b. Deterring unethical conduct.
 - c. To make lawyers suffer for the harms they cause.
 - d. To protect the public.

9. A court has appointed Starr Robins to represent a man who has been charged with indecent touching based on a complaint filed by a woman he met on the subway. At the beginning of the initial interview, Starr pointedly says to her client: "It's none of my business whether you did it or not. I don't want to hear about it." Starr's approach is:
- Appropriate since it minimizes the chance that she might receive information that could later tie her hands in defending her client.
 - Not appropriate since it is in conflict with, among other things, her duty of thorough preparation.
 - Appropriate since it is not her job to be the judge and jury of her own client.
 - Not appropriate because she cannot ethically let her client enter a plea of "not guilty" without reason to believe that he is innocent.
10. Compared with the civil law (inquisitorial) system, the adversary system probably:
- Provides lawyers with more freedom to game the system and argue false inferences from the evidence.
 - Is better for an accused who is guilty or one for whom government does not represent a benign force (so that a having a bulwark to impede government actions may be personally desirable).
 - Both of the above.
 - Puts greater constraints on lawyers in fashioning the best possible case for their clients.
11. While a witness called by Maria was being cross-examined at trial, Maria heard the witness answer a question on a material point in a way that Maria believed was false. During the next recess Maria confronted the witness and asked: "Why did you say that?" The witness responded: "Because that's the way I remember it, and I'm supposed to tell the truth." A few minutes later, Maria's client confirmed that the witness "got it wrong," so now Maria *knows* the witness' answer was false. Under the Model Rules, Maria has:
- No obligation to do anything in particular about the false statement.
 - An obligation to take reasonable remedial measures including disclosure to the court.
 - An obligation to take reasonable remedial measures *except* disclosure to the court.
 - An obligation to inform the other side in open court.
12. While listening to a witness *called by the opponent* being cross-examined by counsel for a co-defendant, Maria heard the witness answer a question on a material point in a way she knows is false. During the next recess Maria confronted the witness and asked: "Why did you say that?" The witness responded: "Because that's the way I remember it, and I'm here to tell the truth." Under the Model Rules, Maria has:
- No obligation to do anything in particular about the false statement.
 - An obligation to take reasonable remedial measures including disclosure to the court.
 - An obligation to take reasonable remedial measures *except* disclosure to the court.
 - An obligation to inform the other side in open court.
13. Irwin represents a defendant in a domestic violence case. During his initial interview with Carboy, the defendant's next-door neighbor, Irwin should:

- a. Be extremely careful not to say anything that might plant “memories” of non-existent events that could support a false defense.
 - b. Ask Carboy not to talk to the prosecutor or lawyers for the victim, if Carboy’s story is unfavorable to Irwin’s client.
 - c. Not coach the witness.
 - d. All of the above.
14. During a pretrial proceeding, Irwin’s domestic violence client stated under oath that he had never owned a gun (a statement that was material to the proceeding). Later, the client told Irwin confidentially that he just remembered, he’d owned a gun for a short time while in high school. It was an old non-functioning pistol that he’d sold to a friend soon after he acquired it. Irwin fears that, if the prosecutor learns about this, he might want to use it to hammer away his client’s credibility, which could significantly affect outcome of the case.
- a. Irwin had best keep this information to himself and advise his client to do likewise.
 - b. Irwin should discreetly let the judge know that his client misremembered and misspoke, but should do so out of the hearing of the prosecutor.
 - c. Irwin has an obligation to correct the record only if his client deliberately spoke falsely at the pretrial proceeding.
 - d. Irwin must disclose his client’s error and provide the correct information to the tribunal.
15. By the time that Irwin’s domestic violence case comes to trial, Irwin is convinced that his client is innocent.
- a. He should definitely let the jury know his opinion of the case and, indeed, it may be disloyalty or malpractice not to.
 - b. He should avoid asserting personal knowledge of the facts to the jury, even if he happens to have such knowledge.
 - c. He should avoid urging any factual inferences from the evidence unless he honestly believes the inferences to be true.
 - d. All of the above.
16. Donovan represents Fifth National Bank on a continuing basis in connection with its loan business. Louise Simmons comes in and asks Donovan to represent her in a tort action after she was injured in a revolving door at the bank’s entrance.
- a. There is no obvious problem with Donovan’s agreeing to represent Louise.
 - b. Donovan can represent Louise as long as her tort action is not “substantially related” to any matter in which Donovan represents the Bank.
 - c. There should clearly be no problem with Donovan representing Louise as long as she and the Bank both give informed consent.
 - d. None of the above.
17. As part of his continuing work for Fifth National Bank, Donovan represented the bank in connection with its issuance of a line of credit to Classic Car Co., a local automobile dealer. Now the Townsend Savings Bank, which holds the mortgage on Classic’s sales site, wants to foreclose because Classic is behind in its mortgage payments. The foreclosure proceeding, if successful, could effectively put Classic out of business, jeopardizing repayment of the line of credit. Townsend wants Donovan to handle the foreclosure on its behalf.

- a. Donovan would have a conflict of interest in handling the foreclosure for Townsend because the foreclosure matter is substantially related to the line of credit.
 - b. Donovan would have a conflict of interest in handling the foreclosure because there is a significant risk that his representation of Townsend will be materially limited by his responsibilities to another person.
 - c. Donovan cannot ethically handle the foreclosure for Townsend because doing so would constitute a successive conflict of interest.
 - d. Donovan cannot ethically handle the foreclosure for Townsend because he owes a duty of confidentiality to Classic.
18. Hobson is on trial for assault with a deadly weapon. His attorney from the public defender's office seems to be distracted, unprepared and deficient in zeal. In the proper operation of our adversary system:
- a. It would generally be considered advisable and acceptable for the judge to take charge of the defense, asking lots of questions, etc.
 - b. The judge should act more as a referee whose principal function is to make sure that the advocates stay within the bounds of the law.
 - c. Hobson's lawyer and the prosecutor are both expected to do their best to present a fair and balanced picture of the facts of the case.
 - d. The judge should, in any event, actively lead the search for truth, and the advocates are there mainly to assist the judge's efforts.
19. Stella Young has a client who wants to falsely deny on the stand that he committed the crime for which he is being prosecuted. Stella tells her client that her personal standards will not allow her to let him testify falsely. He promises he won't but, once he gets on the stand, he does it anyway:
- a. Stella may disclose the perjury to the tribunal, but she does not have to.
 - b. Stella must disclose the perjury to the tribunal.
 - c. Stella may disclose the perjury to the tribunal, but only if doing so does not violate her duties of confidentiality under rule 1.6.
 - d. Stella must disclose the perjury to the tribunal, but only if doing so does not violate her duties of confidentiality under the attorney-client privilege.
20. A witness named Baer gave trial testimony that was strongly unfavorable to the plaintiff, who was Fred Ransone's client. Ransone believes, based on independent information, that Baer was telling the truth.
- a. Most lawyers would agree that, on cross-examination, Ransone's job would be to try to undercut Baer's credibility.
 - b. The Model Rules would discourage Ransone from undercutting Baer's credibility during cross-examination.
 - c. It would violate the Model Rules for Ransone to try to undercut Baer's credibility during cross-examination.
 - d. Ransone should just let Baer's credibility speak for itself.
21. During his investigation of a case, Dove encountered a witness, Scure, whose testimony would be very unfavorable to Dove's client. As an ethical matter (*i.e.*, apart from any relevant rules of procedure):
- a. Most lawyers would agree that Dove should reveal Scure's existence to opposing

counsel even if the opponent makes no discovery demand calling for such information.

- b. The Model Rules would *require* Dove to reveal Scure's existence to opposing counsel even if the opponent makes no discovery demand calling for such information.
- c. Both of the above.
- d. The Model Rules would not require Dove to reveal Scure's existence to opposing counsel unless doing so is required by law.

22. During cross-examination, Dove's client was asked: "Did you have a charge account at Pogue's Department Store at any time during the period of 2002-2008?" At various times during that period, the client had accounts at Pogue's as well as at Robinson's, Wilmur's, and McAlpin's. Also, in 2006 the client's wife had a charge account of her own at Pogue's. Which of the following answers by Dove's client would probably be considered perjury?

- a. "No."
- b. "I had charge accounts at Robinson's, Wilmur's, and Beerman's."
- c. Both of the above.
- d. "My wife had a charge account there in 2006."
- e. All of the above.

23. Kate Beveral, an insurance defense lawyer, has a client who is being sued for automobile negligence. The client is accused of causing a collision by running a red light. Even though Beveral's client insists her light was green, her husband (who was a passenger in her car) has said it was red. What is more, the fact that her light was red has been confirmed by a surveillance video from a nearby store. The husband cannot be required to testify against his

wife (and his hearsay is inadmissible). Since the plaintiff does not know about the video, the case comes down essentially to just the word of Beveral's client against that of the plaintiff. For Beveral to assert a defense based on her client's obviously mistaken (though honestly believed) testimony would be;

- a. Unethical.
- b. Frivolous, in violation of the Model Rules.
- c. Fabricated controversy, though not (apparently) a violation of the Model Rules.
- d. Dilatory.

24. Beveral has received a discovery demand under which she would have to disclose, among other things, the existence of any evidence that might shed light on the facts of the collision in the previous question. She waits until the last moment permitted under the discovery rules and then asks for more time to comply. Even though her request for more time is technically legitimate, and is a common sort of occurrence, her particular reason is that she hopes the surveillance video will be overwritten, as they routinely are, before the adversary finds out that it exists. Beveral's tactics are:

- a. A clear violation of her ethical duty to make reasonable efforts to expedite the litigation.
- b. Arguably permissible since the delay would be "consistent with the interests of her client."
- c. Obviously dilatory.
- d. A clear violation of her ethical duty not to destroy evidence.

25. At the trial of the case in the previous question, Beveral's adversary asked the defendant: "Are you sure the light was green in your direction? How do explain that your husband has said that the light was red?" Assuming that the

husband's out-of-court statement was inadmissible under the hearsay and marital privilege rules, this tactic:

- a. Would be a clever and effective way to get around evidentiary prohibitions.
 - b. Might raise questions under the rules of evidence, but would not violate anything in Model Rules.
 - c. Would technically constitute a false statement in court, prohibited by the Model Rules.
 - d. Would violate the rule regarding fairness to the opposing party and counsel.
26. In our current system of adversary justice, a trial is best characterized as:
- a. A search for truth.
 - b. An endeavor in which truth is important but values other than truth sometimes take precedence.
 - c. A system for resolving disputes in which so-called "truth" plays at most a secondary role.
 - d. An endeavor in which the judge is ultimately responsible for digging out the truth and making sure that it prevails above all else.
27. After an all-nighter finishing up a memorandum in opposition to a motion, Larvick noticed an appellate case *cited in his opponent's memo* that had a somewhat different holding from that of a more recent trial court opinion on which Larvick had heavily relied. To go back and deal with the appellate case in Larvick's memo would take up precious time and, probably, put his memo over the court-imposed page limit.
- a. Larvick must cite the appellate case if it is directly adverse to the position of his client.
 - b. Larvick must cite the appellate case if its holding would have a substantial effect on the position of his client.
 - c. It may be strategically important for Larvick to deal with the appellate case but, under these facts, it does not appear that he is ethically required to do so.
 - d. There is no reason why it would be strategically important or ethically required for Larvick to cite the appellate case in his own memorandum.
28. After Dennis was discharged from his job as an office supervisor, he sued his former employer, Gibbs Mfg. Corp. During the settlement negotiations, a lawyer for Gibbs mentioned that several of Dennis' female co-workers had complained that Dennis had engaged in "sexual harassment." When asked by his lawyer, Dennis admitted to dating one of the women in the office for a short time, before she had been promoted and left for another office. Based on all this, Dennis' lawyer advises him to settle "low," which he did. Now Dennis has learned that the supposed complaints of harassment were a total fabrication by the Gibbs lawyer.
- a. The Gibbs lawyer violated the ethical rules.
 - b. Dennis had no right to rely on the statements by the Gibbs lawyer since he was representing the adversary.
 - c. Even if a lawyer tells an outright falsehood in settlement negotiations, that conduct would not provide a basis for re-opening the settlement.
 - d. All of the above.
29. In connection with a suit to recover damages from an accident at a ski resort, the defendant required plaintiff Ivor Hansemann, age 25, to undergo a physical exam by a doctor retained by defendant. During the exam, the doctor noticed that Hansemann had a medical condition which, if not treated, could become

very serious in a short time. The condition might not have been caused by the accident in question but disclosure of the condition would nonetheless probably increase the amount that the defendant would have to pay in settlement. The defendant's lawyer:

- a. May keep the condition confidential during the settlement negotiations with the adversary, Hansemann.
- b. Must disclose the condition to Hansemann near the beginning of the settlement negotiations.
- c. Is generally required by the Model Rules to disclose all relevant facts to the opponent during settlement negotiations.
- d. Is generally required by the Model Rules to keep all relevant facts secret from the opponent.

30. While representing Roth in a real estate purchase, Edmond prepared a sketch showing the approximate outline of the property based on his search of the title. However, due to Edmond's negligence in doing the search, the outline indicated an acreage that was approximately 140% of the actual acreage. Later, when Roth was selling the same property, he gave a copy of the erroneous sketch to the prospective buyer, who relied on it. Now the buyer wants to sue Edmond for negligence in preparing a sketch.

- a. This case seems to present a standard case of negligent misrepresentation for which Edmond traditionally would be liable to the second buyer.
- b. Traditionally, the doctrine of "privity" would pose a barrier to holding Edmond liable to the second buyer for his error.
- c. Traditionally, the doctrine of "privity" would provide a solid basis for holding Edmond liable to the second buyer for his error.

- d. Traditionally, the doctrine of "privity" would not enter into the analysis of a case such as this one.

31. In general, when lawyers represent clients in transactions, the lawyers are:

- a. Legally responsible to the opposite party for the veracity of the statements made in the documents that their clients deliver at the closing.
- b. Legally responsible to the opposite party for the veracity of the statements made in the documents *that the lawyers draft* and their clients deliver at the closing.
- c. Legally responsible to the opposite party for the veracity of the statements made in the documents that the lawyers draft and, *on their own behalf*, deliver (*e.g.*, their legal opinions).
- d. Not legally responsible to the opposite party for the veracity of statements in documents delivered at the closing unless they have a fiduciary relationship with the opposite party.

32. A "noisy withdrawal" occurs:

- a. When a lawyer decides to leave and stands up so fast that he knocks over the chair on which he was sitting.
- b. When a lawyer withdrawing from representation disavows documents and work previously done for the client in order to prevent their later use to commit crimes or frauds.
- c. When a lawyer withdrawing from representation tells the other side his or her reasons for withdrawing in order to prevent the other side from being taken in by his or her client's later crime or fraud.
- d. When a lawyer switches sides.

I.

Gordy Roberts received a call from a client he represented about five years ago in a bodega robbery. The client, Lincoln Jobb, said he got out a few weeks before and now he's been arrested for robbing a jewelry store. He claims that this time he's innocent.

When Gordy says he'll take the case, Jobb tells him about his car, which he says is parked on the street. Gordy agrees to arrange for the car to be taken to a secure parking area. Gordy's investigator goes to Jobb's apartment to get the extra car key so he can move the car. When the investigator returns to the office, he's carrying a blue ski mask that he found in the car. He also reports that, in retrieving the car key from its secret hiding place mentioned by Jobb, he saw a sack full of gold necklaces and bracelets. The next day, at the arraignment, Jobb enters a not-guilty plea. The prosecutor informs Gordy that the jewelry store robber wore a blue ski mask.

1. Does Gordy have a duty to reveal the existence or location of the jewelry? Can he be compelled to do so?

2. Is the ski mask protected by the attorney-client privilege?

II.

Doris Romaine recently got job with an environmental law firm. Yesterday she was assigned to a case against Wexx Chemical Co., a manufacturing company with a somewhat spotty record of hazardous waste compliance. In this case, the company allegedly buried barrels containing chemical poisons in a field behind one of its warehouses. As Doris started looking through the file, she realized that her husband, Barney, had represented Wexx Chemical a couple of years earlier when it was being sued by neighbors upstate for contamination which, the neighbors alleged, had spread onto their land and into their wells.

3. You represent Wexx Chemical and have the foregoing information. The company wants to know if there is a conflict of interest here and, if so, how it can make the most of it.

III.

Gechercash Collection Agency (GCA) boasts one the most successful records in the industry for getting deadbeats to pay their bills. At the company's office it posts the names of all its collection agents on a big board along with a daily running total of their collection results. At the beginning of each month, the names of the three lowest ranking

agents from the previous month are missing from the board, replaced by three new names. The desks of the three missing agents are occupied by three new people.

Harold Hotshot wants to bring a class action against GCA, alleging that its practices violate the Fair Debt Collection Practices Act. To get evidence, he has hired an investigator and arranged with a local retailer to send a fictitious list of overdue “debts” to GCA for collection. His objective is to secretly record the phone calls that the fictitious debtors receive. The day after the list was received, a newly hired GCA agent, Ellen Osterhout, made a collection call to one of the supposed debtors (actually an employee of the investigator). During the call, she made several false statements in violation of the Act, including a claim that GCA is a credit reporting company.

Right after Hotshot sent a copy of the Osterhout recording to GCA, the law firm retained by GCA sent two lawyers to pay a visit to Ellen. They told her they represented the company and so anything she said to them would be protected by the attorney-client privilege. They also said they could only help her if she was completely truthful with them. Finally, they told her that, under no circumstances, should she talk to anybody from Hotshot’s office or working for his investigators. A month later, GCA discharged Ellen for underperformance.

4. Was it all right for the two lawyers to tell Ellen not to talk to anybody who was from Hotshot’s office or working for his investigators?

5. While talking to the two lawyers for GCA, Ellen made several damaging statements that could support serious personal liability on both her and GCA. Can the two lawyers be forced to disclose these statements over GCA’s objection?

6. Is it all right for Hotshot now to visit Ellen and hint at a “favorable” settlement with her if she makes a “confession” that can be used against GCA (and, though he doesn’t mention this, against her as well)?

7. Suppose, with the permission of GCA, the two lawyers for GCA voluntarily disclose the damaging statements mentioned in question 5. Does Ellen have any recourse against the two lawyers if she becomes liable to pay substantial damages as a result of their disclosures?

IV.

Jon Farmer has represented Harwin Owens for a number of years in a variety of commercial real estate ventures. Last week Owens called Farmer with a proposal for a very lucrative “sure fire” deal. He said he wanted Farmer to be in on the action, and sent him an outline of the business aspects of the deal. Among other points, Farmer was to get a 20% share and Owens would have a 49% share. At Owens’ request, Farmer agreed to do the legal papers needed for the deal, following Owens’ instructions on all relevant business points. However, Farmer made clear (and Owens agreed) that Farmer would not be representing Owens in this transaction.

8. Does Farmer need to be concerned about a conflict of interest in this situation?

<End of examination.>