

IPI #2

1. You represent Client, a telemarketer. Client cheats some people, including Gullible, out of thousands of dollars. Gullible accuses you and Client of fraud, and sends a letter telling all about the deception to the local paper which the paper publishes. You knew nothing about the fraudulent scheme. As soon as you read about the accusations against you, you send Gullible copies of letters between you and Client in which you advised Client not to undertake such schemes. No lawsuit, either civil or criminal, has been filed against either you or Client. Are you subject to discipline for sending the letters to Gullible?
 - A) Yes, because your action violates the duty of confidentiality.
 - B) No, because a lawyer may reveal confidential information to clear his name before charges are filed.
 - C) Yes, because no charges have been filed against you.
 - D) No, because Client is not trustworthy and did not follow your advice.
 - E) Yes, unless Client gave his permission for the letters to be sent to Gullible.

2. Max Millionaire comes to you and states that he wants you to help him with the sale of his property in an upcoming sale with Exxon. The land, though quite desolate to look at, is rich with oil and other minerals. Exxon is willing to pay \$2 million dollars. Max tells you that when he purchased the property last year he had it appraised by “an old friend” who stated the land’s worth was \$100,000. The elderly woman selling the land, believing the appraiser’s estimate, sold the land to Max for \$100,000. Knowing that Max lied to the elderly woman, what should you do?
 - A) Call the elderly woman and inform her of the upcoming sale to Exxon and advise her that she should sue Max.
 - B) Send the elderly woman an anonymous letter advising her of Max’s original wrongdoing.
 - C) Because you are an officer of the court, you should call the Judge and tell him that you have recently become aware of a fraudulent land sale.
 - D) Call Exxon and inform them of Max’s wrongdoings.
 - E) Advise Max that he should fairly compensate the elderly woman, but if he chooses not to, you keep the information about Max’s past fraudulent behavior confidential.

3. Attorney Andy and his wife are having marital problems. After several attempts to work things out, Andy decides that he wants a divorce; however, he is worried that his wife may get custody of his two children. Andy is worried because he knows that his wife is an alcoholic. The problem is that she is also very secretive about her drinking problem. Andy will likely have to testify against his wife in their divorce proceeding. Andy asks Ralph Bigbucks, one of the twenty attorneys in the firm where Andy works, to be his attorney for the divorce. Can Ralph take the case?
- A) No. Andy is a necessary witness and Andy's disqualification is imputed to Andy's firm.
 - B) No. Although Ralph has never been Andy's wife's attorney, he has known her and Andy personally for three years.
 - C) Yes. If a lawyer is disqualified, this disqualification is not imputed to his entire firm.
 - D) Yes. In Arkansas an exception to the Rule allows a lawyer's firm to represent him, if the lawyer who will be a witness to the Rule is a party to the litigation.
4. When may an attorney permissibly communicate with jurors or prospective jurors in an Arkansas state court? (Assume all conversations are conducted in a reasonable, non-embarrassing, non-harassing manner.) You may choose any of the eight following options.
- A) The lawyer asks the neighbor of a prospective juror, "What is his stand on capital punishment?"
 - B) The lawyer asks the brother of a prospective juror, "How would he feel about a million dollar judgment?"
 - C) During trial the lawyer says to a juror, "sure is hot today. How is it in the jury room?"
 - D) After the jury is discharged, the attorney calls the juror at home, "What did you think of my closing argument?"
 - E) The attorney has acted ethically only in (A) and (B).
 - F) The attorney has acted ethically only in (C) and (D).
 - G) The attorney has acted in a proper fashion only in (A) and (D).
 - H) The attorney has acted in a proper fashion in all four situations.
5. Attorney Carl has entered into the following arrangement with the Second Trust Bank. As a part of his estate planning practice, he may refer clients to them for trust services (which they can provide competently and fairly). If the trust department provides services to the client, the trust department will compensate Carl. Carl will notify the client in writing that he will be compensated by the trust department and that the client is not obligated to go to this particular trust department. Is this arrangement ethical?

- A) No, because Carl is sharing legal fees.
- B) No, because Carl has entered into a partnership with a non-lawyer that involves the practice of law.
- C) No, because Carl has entered into a business relationship with the client.
- D) No, because the arrangement is to the disadvantage of the client.
- E) Yes. It appears to be consistent with the ethical requirements.

6. Charles the client is on trial for murder and is represented by Larry the lawyer. Charles claims he did not commit the murder. The week before the trial, Charles tells Larry that he remembers that he was shopping for his girlfriend's birthday present at the mall that night at the time of the shooting. Furthermore, Charles tells Larry that he saw his friend Fred at the mall that night, and that Fred is willing to testify that he saw Charles at the mall. Charles wants to take the stand and testify that he was at the mall, and he wants Larry to put Fred on the stand.

After questioning Fred and Charles, Larry the lawyer suspects that neither of them is telling the truth.

Which of the following options best reflects what Larry must do?

- (1) Larry must allow Charles to testify.
 - (2) Larry has discretion as to whether to allow Charles to testify.
 - (3) Larry must allow Fred to testify.
 - (4) Larry has discretion as to whether to allow Fred to testify.
- A. Only (1) and (3) are correct.
 - B. Only (1) and (4) are correct.
 - C. Only (2) and (3) are correct.
 - D. Only (2) and (4) are correct.
7. After graduating from law school in 1986, Debbie joined the ABC Law Firm and worked with municipal bonds. At the time, a senior partner at ABC represented the husband in a messy divorce.
- In 1995, Debbie left ABC and began working for XYZ Law Firm. In 2003 a partner in XYZ began proceedings on behalf of the ex-wife in regard to the alimony and property settlement agreement obtained in the original divorce. Debbie will not work on this matter.
- A) Provided XYZ builds a Chinese wall around Debbie, XYZ may handle the matter.
 - B) According to the principle of laches, the passage of time (approximately 17 years) removes any lingering conflict of interest.

- C) The burden rests on ABC to rebut the presumption. Otherwise ABC is disqualified.
 - D) The burden rests on XYZ to rebut the presumption. Otherwise XYZ is disqualified.
8. In Count Four of the State's Felony Information, the State has charged the Defendant with delivery of a quantity methamphetamine in excess of four hundred grams, allegedly triggering the enhanced forty years of life sentence provision of A.C.A. § 5-64-401. Two weeks prior to trial the results of testing by the state crime lab are released to the prosecutor showing that the quantity of methamphetamine in question weighs in at 377.75 grams. Under the Rules of Professional Conduct, the Prosecutor:
- A) Need only notify counsel for the defendant prior to the start of trial.
 - B) Need not notify anyone. The Prosecutor is under no obligation to assist in the defense of the defendant. Counsel for the defendant is required to inquire about the results of drug testing prior to the start of trial.
 - C) Must notify counsel for the defendant at least ten days prior to trial, in accordance with Rule 7.5, otherwise known as the "ten day rule."
 - D) Make timely disclosure of the testing results to the defense, since the information tends to mitigate the offense.

9. Last year the Chief Engineer of the corporation wrote some notes to himself on a yellow legal pad that said "Our widget is potentially dangerous. We should not be selling it." Six months later in a corporate staff meeting, Connie, the corporate attorney, looked at the yellow legal pad and told the Chief Engineer to "destroy the notes." The engineer destroyed the notes.

Two months ago a customer was injured using the widget. The customer's attorney has brought a lawsuit. As a part of discovery, the customer's attorney has commenced discovery proceedings. He has asked for "all memos, reports and notes concerning the widget." Connie, the corporate attorney, responded, "The corporation has no memos, reports or notes concerning the widget."

In addition, the attorney for the customer submitted an interrogatory asking, "Did the chief engineer write any memos or reports concerning the widget?" The corporate attorney answered, "No. He did not write any memos or reports."

Did Connie, the corporate attorney, act according to the Rules of Professional Conduct?

- A) She acted unethically in telling the chief engineer to destroy the notes.
- B) She acted unethically in her answer to the request for documents.
- C) She acted unethically in her response to the interrogatory.
- D) Both (A) and (B) are correct.
- E) Both (B) and (C) are correct.

- F) Both (A) and (C) are correct.
- G) She acted unethically in all three instances.
- H) She did not act unethically in any of the three instances.

10. Danny the Driver hires Alice the attorney to represent him in a criminal matter in Rogers. She agrees and accepts a fee. She has not yet appeared in court for him.

The next day, Larry the Landlord comes to Alice and says “I sure am glad I have you on retainer for 2003. Here is another deadbeat tenant in my Fayetteville apartments. Have him evicted and collect all back rent and damages.” Alice realizes the Tenant is Danny the driver, whom she agreed to represent yesterday.

What can Alice the attorney ethically do?

- 1) She can represent both because the matters are unrelated; in different counties and before different judges.
 - 2) She must now reject Danny because her prior allegiance is to Larry the landlord.
 - 3) She can represent Danny, because he came to her first; however another member of her firm may represent Larry.
- A. All of the above are ethically permitted.
 - B. Only (1) is permitted.
 - C. Only (2) is permitted.
 - D. Only (3) is permitted.
 - E. None of the above are ethically proper. She must find another solution to her dilemma.