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1. May Larry ethically follow Peters instructions to file the Motion.

DUTY OF SUPERVISING L AND OF SUBORDINATE L

Under the ABA and CA Rules, generally a supervising lawyer is responsible under agency theory for actions of subordinate lawyers. A supervisor is liable if they order a subordinate lawyer to do an unethical action, do not rectify the action, or ratify the action. However, a subordinate L will not escape liability if it is patently obvious that it is a violation of the Rules. If there is a clear question of ethics, the subordinate L may escape liability.

Here, P has instructed L to file a motion for documents in relation to Smiths trade secrets. L has don his research and has made colorable claims that the motion will be denied and may give rise to sanctions. He has made his concerns clear to P, however P told L to file the motion. If L does file the motion he will likely be in violation of the rules because he has done his research and it's patently obvious there is going to be a violation. Here L is an associate, and if an associate can find a violation of the rules, one may infer that a partner should understand. Also, P did not explain WHY there was NO violation of the rule per se. Had he explained that there was a question of ethics and it was not a violation, L could escape liability.

Thus, L under the ABA and CA rules, will not escape liability because it is patently obvious that there is a violation of the rule because he has done his research.

DUTY TO WITHDRAW

Under the ABA and CA a lawyer has a duty to withdraw for a violation of the rules or other law. As well under the CA rules they must withdraw if physical or mental inability would make it unreasonably difficult. Under the ABA physical or mental inability requires material impairment. Under the CA rules a lawyer must withdraw if it would result in frivolous litigation.

Here, L is in violation of the CA and ABA rules as discussed above because he has done his research and sanctions are a likely result. As well, Sanctions are given for frivolous litigation by the courts. Here, L knows that the motion will result in sanctions because he has done his research. Therefore under the CA rules P must withdraw because he is bringing frivolous litigation.

Here there appears to be no mental or physical impairment.

Thus, P must withdraw under the CA and ABA rules because there is a patently obvious violation of the rules as discussed above. Also, he must withdraw under the CA rules because

filing the motion will result in sanctions which is construed as bringing forward frivolous litigation.

DUTY TO REPORT

Under the ABA Rules, if an L KNOWS of a violation of the rules that calls into question another L's trustworthiness and ability to practice law they must report. Under the CA rules an L must self report when a felony is committed, Sanctions above \$1000, or 3 malpractice suits in a year.

Here, L likely knows that a violation will be committed, however that action has not happened because it is too soon. When and if it does happen, under the ABA rules, he will likely have to report. Under the CA rules, if he files the motion, AND he there are sanctions L will have to self report if the sanctions are above \$1000.00. There are no felonies or malpractice suits pending.

Thus, L under the ABA rules, has a duty to report if he files the motion and sanctions occur. Under the CA rules, he has a duty to self report if the sanctions are above \$1000.0

2. What are Larry's Obligations in relation to the damaging document?

DUTY TO DISCLOSE MITIGATING EVIDENCE

Under the ABA and CA rules L has a duty to present mitigating evidence.

Here, P has instructed L to withhold the document from discovery. This is a violation under the ABA and CA rules because L knows there is NO BASIS at all to refuse the production of the document.

Thus, L has violated his duty to present mitigating evidence under both sets of rules.

DUTY TO OPPOSING COUNCIL/ DUTY OF CANDOR

Under the ABA and CA rules a lawyer must not make a false statement or make a dishonest trick to opposing counsel. Under the CA rules an lawyer make material statements that are untruthful. This applies to objections.

Here, as discussed above, there is no basis for the rejection, a lawyer must present mitigating evidence. As well, P has instructed L to impose hearsay, trade secrets and overbreadth objections and not produce the document. This is a dishonest trick because it is baseless due to the fact that the document would be "very helpful" to the opposition. Thus, under the ABA and

CA rules, L has made a dishonest trick and broke his ethical violations.

Here, under the CA rules, the hearsay, Trade Secrets and the overbreadth objections are untruthful material statements because they are lies. L knows the document is helpful and he will therefore be in violation of the rules if he does not produce the document.

Thus, L is in violation of the ABA and CA rules for dishonest trick, and the CA rules because he will be making untruthful statements to opposing council.

3. What ethical obligations must Larry respect with regard to XYZ's job offer?

DUTY OF CONFIDENTIALITY

Under the ABA and CA rules a lawyer owes an absolute duty to current and former client confidentiality, unless an exception applies. Under the ABA rules exceptions are substantial bodily harm (SBH), substantial financial harm, reporting violations to the ethics board and compelled by the law/courts/rules. Under the CA rules, exceptions are SBH (after informing the client that they may have to disclose if there is continuation) and if compelled by the law or courts.

Here L has to maintain a firm duty to his current and former clients. If he chooses to talk to XYZ firm, he MUST not disclose any information obtained during the any current or former client relationships. As no exception applies under these facts L may not break his duty.

Thus, if L leave ABC for XYZ he may not break confidentiality of his current or former clients under both the ABA and CA Rules.

IMPUTED DISQUALIFICATION.

Under the ABA rules there will be an imputed disqualification to the entire firm if there is an actual conflict or potential unless it is of a personal interest, or if the lawyer is timely screened of an apportioned none of the fee and the client is informed. The CA rules are the same, but the client must give informed written consent.

Here, under the ABA if L takes the job offer with XYZ he will have to be screened off, and receive none of the fee otherwise XYZ will have an imputed disqualification. As well Smith will need to be informed and under the CA rules Smith will have to give informed written consent that opposing counsel in a former or current matter has taken a job with the XYZ firm.

Thus, L will have to inform XYZ of this obligation and Smith will have to give consent under the ABA rules, and informed consent under the CA rules.

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