

3)

L's ethical violations

Corporate/Organizational Client

A lawyer hired by organization represents the organization and must act for the best interests of the organization.

Here, L is general counsel for MoreHome, a California corporation. Thus, L has a duty to act for the best interests of MoreHome.

Organization and its Constituents

A lawyer may also represent organization and its constituents both if an exception for concurrent conflicts of interest applies.

Here, L is hired by MoreHome, the corporation and Eric is an entry-level mortgage advisor at MoreHome, its constituent. L may represent MoreHome and Eric both if there is no concurrent COI.

Duty of Loyalty

A lawyer has a duty of loyalty to her client. L may never put her own interests above the interests of the client and avoids the conflicting interest to her client.

Conflicts of Interest (COI)

Concurrent COI arises when there is a significant risk that the representation of client would be materially limited by L's responsibility to current or former clients, or third person, or by L's personal interest.

Under the ABA, L may still represent if L reasonably believes that there will be no adverse effect, and the client gives informed written consent. In California, L must provide fully written disclosure to her client when there exists the L's personal interests.

Here, Eric gave L documents which demonstrate that MoreHome employees are falsifying the ory of many mortgage applicants and also show that it is MoreHome's policy to push risky mortgages onto unsuspecting customers. When Eric confided in L and wanted L's legal advice on what to do, this clearly shows there is concurrent COI between MoreHome and

Eric as its constituent because the documents are against MoreHome due to its crime under state law. It is unclear whether L take the representation of Eric because L told Eric she would think about it and get back to him, which seems undecided yet. If L represents Eric, then there would be a concurrent COI, L may have breached the duty of loyalty.

Report up, Report out

When L finds the rogue employee's act which likely result in substantial injury to the organization, L must report up to a higher authority unless L reasonably believes it is not in the best interest of the organization to do so. Under the ABA, if the highest authority fails to take action, L may report out and reveal confidences of the organization. In California, L may not report out; rather L shall urge reconsideration to higher authorization within the organization. if still fails, L must resign or withdraw from representation.

Here, L finds that MoreHome employees are falsifying the financial history of many mortgage applicants and also show that it is MoreHome's policy to push risky mortgages onto unsuspecting customers. It is likely result in substantial injury to MoreHome because the practices shown in the documents constitute a crime under state law. Also State Attorney General is aggressively investigating similar practices by mortgage companies in the state. Thus, L must report up to a higher authority, Mianne as CEO.

Under ABA, L may report outside and reveal information because M as CEO, the highest authority failed to take action since he instructed L not to do anything with the documents. Thus, L didn't commit violation under the ABA. However, in CA, L committed the violation because L may not report out, rather urge reconsideration to M. If fails, L should have resigned from the representation.

Duty of Confidentiality

L shall not reveal information relating to the representation of the client. However, for ABA rule, it is permissive but not required if L reasonably believes necessary to prevent substantial financial harm.

Here, L reasonably believes it is necessary to prevent substantial financial harm, thus L did not commit violation under ABA. In California, L committed violation under the duty of confidentiality.

Question #3 Final Word Count = 642

END OF EXAM