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What ethical violations, if any, has Arthur committed?

Conflict of Interest: Organization as a Client

Under the ABA and CA, when a lawyer is representing an organization they must use reasonable efforts to act with the best interest of the organization. A lawyer is permitted to represent a constituent of the organization only if: 1) they believe they can provide competent and diligent representation to the organization and the constituent; 2) the representation is not prohibited by law; and 3) the receive implied authorized consent from the organization and the constituent. However, a lawyer must not represent a constituent if they have interests that are materially adverse to the organization and when they come to know of such interests they must communicate to the constituent that they represent the organization and seize communication immediately.

Here, Arthur is representing an organization because he works as in-house counsel for Northwest Fidelity Fund (Northwest) which is a securities firm. Arthur is also representing Cooper because Cooper frequently confers with Arthur and other in-house counsels for legal advice. Arthur is permitted to represent Cooper because Cooper has not yet asked for legal advice from Arthur that is adverse to the interest of Northwest. However, this representation is not warranted because Arthur has not received authorized consent confirmed in writing in from Northwest after having reasonably informed them of that their constituent, Cooper, regularly seeks legal advice from in-house counsel.

Thus, Arthur has committed an ethical violation under the ABA and CA by not informing Northwest of his representation of Cooper.

Reporting Within

Under the ABA and CA, when a lawyer is representing an organization and they receive information that is materially adverse to the interest of the organization or can reasonably cause death, substantial bodily harm, or a violation of the law, they must report within the organization to the highest authority.

Here, because Arthur has not received any information from Cooper that suggests that his interests are materially adverse to the organization's, that he will cause death or substantial bodily harm, or that he is seeking to violate the law, Arthur does not need to report within the organization to the highest authorities.

Thus, under the ABA and CA, Arthur has not committed an ethical violation by not reporting within.

Reporting Out

Under the ABA, when a lawyer reports within the organization to the highest authorities regarding a matter concerning adverse interest to the organization, the possibility of a violation of the law, or someone that has plans to cause death or substantial bodily harm and the higher authority does not take any action, then they may report out. Under CA, a lawyer does not have a duty to report out.

Here, Arthur was not under a duty to report within because he did not receive any information from Cooper that warranted doing so, he does not have a duty to report out.

Thus, under the ABA and CA, Arthur has not committed an ethical violation by not reporting out.

Formation of Attorney Client Relationship

Under the ABA and CA, an attorney client relationship is formed when the client reasonably believes that there is an existing relationship. No writing is required to bind this relationship.

Here, there is an attorney relationship between Arthur and Cooper because Cooper frequently confers with Arthur for legal advice. It is evident that Cooper reasonably believes that there is an existing attorney-client relationship because he frequently asks Arthur for advice which indicates that Arthur has never communicated to Cooper that he will not him or that they must seize communication immediately.

Thus, under the ABA and CA, there is a valid attorney-client relationship between Cooper and Arthur.

Duty of Loyalty

Under the ABA and CA, a lawyer owes a duty of loyalty to their clients and must act in their best interest at all times by avoiding conflicts of interest. If a lawyer is seeking to represent two clients they have adverse interests the client must keep the clients reasonably informed and encourage them to seek independent legal counsel. Under the ABA, a lawyer must inform both clients of the representation and receive their written consent confirmed in writing in order to proceed with the representation. Under CA, a lawyer must provide written notice of the conflict only if there is an actual or potential conflict.

Here, Arthur owes a duty of loyalty to Northwest and to Arthur because he represents both clients. Furthermore, Arthur must inform both clients of the potential of adverse interests that might arise throughout the course of representation and encourage them to seek independent legal counsel because he represents both parties. Arthur might attempt to argue that Cooper has not divulged any information that would warrant a conflict of interest but this argument will not stand because there is still a potential for a conflict of interest in the future and Arthur must get written consent confirmed in writing from both parties to move forward.

Thus, under the ABA and CA, Arthur has committed an ethical violation pertaining to his duty of loyalty.

Conflict of Interest: Sexual Relations

Under the ABA and CA, an attorney must not enter into a sexual relationship with a client after the formation of a valid attorney-client relationship. A preexisting consensual sexual relationship is permitted under the ABA and CA. A client may never waive this conflict.

Here, Arthur entered into a sexual relation with a client, Cooper, because he was validly representing Cooper after Cooper continuously sought legal advice from him. Arthur might attempt to argue that this relationship is permitted because he represents Northwest and not Cooper but this argument will not

suffice because there is a valid attorney-client relationship between the two.

Thus, under the ABA and CA, Arthur committed an ethical violation by entering into a sexual relationship with a client.

Duty to Report

Under the ABA and CA, a lawyer is under a duty to report to the state bar of their jurisdiction if there is any changes on their status due to a criminal charge or civil litigation.

Here, Arthur was under a duty to report to the California State Bar because he got into an accident with a client, Cooper, while driving under the influence. Furthermore, Arthur had a duty to report this matter to the California State Bar because this was not a minor traffic violation, Arthur was driving under the influence and pled guilty to a misdemeanor charge. The gravity of this charge indicates that Arthur must report this matter because it can change his Character and Fitness status.

Thus, under the ABA and CA, Arthur committed an ethical violation by not reporting this matter to the state bar.

Duty to Communicate

Under the ABA and CA, a lawyer is under a duty to communicate with a client throughout the course of representation and must keep them reasonably informed. A lawyer must communicate all settlement offers to a client and only the client has the authority to accept such offers. Under CA, a lawyer must communicate all plea bargains to a client.

Here, Arthur had a duty to communicate to Northwest that he got into an accident with Cooper that resulted in Arthur pleading guilty to a misdemeanor charge because Arthur got into this accident while attending a business-related conference for Northwest. Arthur might attempt to argue that because he got into the accident on his way back from a social function instead of a conference session he was not doing any duties within the scope of employment. However, this argument will likely not stand because although it was a social function, Arthur only attended the conference to represent Northwest and the social function was hosted by Northwest themselves. Furthermore, Arthur had a duty to communicate this charge and the accident because Cooper, a constituent of Northwest's and a client of Cooper's, suffered a minor injury and this matter must be reported to the organization so they can provide proper representation to Cooper.

Thus, under the ABA and CA, Arthur committed an ethical violation by not informing Northwest of the accident or of Cooper's injuries.

Duty of Confidentiality: Cooper

Under the ABA and CA, a lawyer owes a duty of confidentiality to his client unless they receive actual or implied authorized consent to breach this duty. A lawyer must not breach this duty by informing a third party of the client's legal interest throughout the course of representation and even after. A layer must also take reasonable remedial measures to prevent against inadvertent disclosures.

Here, Arthur owes Cooper a duty of confidentiality because they have a valid attorney-client relationship. However, Arthur must report the sexual-relationship between him and Cooper along with the fact that they got into a car accident together after leaving a company party because these matters do not relate to Cooper's legal interests or any communication throughout the course of representation.

Thus, under the ABA and CA, Arthur would not violate his duty of confidentiality by informing Northwest of the sexual relationship and the accident.

Conflict of Interest: Greencare

Under the ABA and CA a lawyer must not represent clients that have adverse interests if doing so would result in the lawyer's representation being materially limited, unless: 1) they believe they can provide competent and diligent representation to both clients 2) the representation is not prohibited by law; and 3) the receive implied authorized consent from both clients.

Here, Arthur is permitted to represent Greenacre and Northwest because he is authorized to take on outside work. This authorization indicates that Arthur has not breached this duty because there are no facts that indicate that Greenacre and Northwest have adverse interest.

Thus, under the ABA and CA, Arthur has not breached this duty.

Duty of Competence

Under the ABA, an attorney must possess the legal skills, knowledge, preparedness, and thoroughness to provide competent representation. They may consult with outside counsel in order to get familiar with a certain legal matter outside the scope of their practice. Under CA, an attorney must not knowingly, willfully, wantonly, or with gross negligence fail to provide competent legal services.

Here, Arthur does not possess the legal skills or knowledge to represent Greecare because he had never created a nonprofit organization. Arthur will argue that he did not breach this duty because he consulted with an open artificial intelligence to get familiar with the matter and even used it to fill out an application for Greencare for nonprofit status. However, this argument will likely not stand because Arthur did not consult with an attorney but instead consulted with artificial intelligence and even put their confidential information into the tool. Furthermore, Arthur provided legal representation with gross negligence because he consulted with artificial intelligence and then did not verify the information afterwards. Finally, there was gross negligence in this representation of Greencare because the IRS rejected Greencare's application statue do not them being properly prepared which is a task that Greencare put into the hands of Arthur.

Thus, under the ABA and CA, Arthur has committed an ethical violation by not providing competent representation to Greencare.

Duty of Diligence

Under the ABA, a lawyer must provide diligent and prompt representation. Under CA, an attorney must not knowingly, willfully, wantonly, or with gross negligence fail to provide diligent legal services.

Here, Arthur failed to provide diligent representation because he did not act with promptness in representing Greenacre as he did not verify the information he generated into artificial intelligence before filing it with the IRS. Furthermore, Arthur did not provide diligent representation because he did not inform Greta, the president of Greencare, that due to his unfamiliarity with the matter it would take him longer to get up to speed and file the proper papers requested with the IRS. Under CA, Arthur did not provide diligent representation as analyzed above.

Thus, under the ABA and CA, Arthur has committed an ethical violation by not providing diligent representation to Greencare.

Duty to Communicate

See rule above.

Here, Arthur had a duty to communicate with Greta that he was not familiar with the matter he was hired for because he is representing Greencare. Furthermore, Arthur had a duty to communicate because it is important to be truthful to the client's you are representing so they have a better understanding on when they can anticipate an answer from you but Arthur instead told greta that he could easily handle these matters even though he possessed no prior knowledge.

Thus, under the ABA and CA, Arthur has committed an ethical violation by not communicating with Greta.

END OF EXAM