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Final Examination

LEGAL PROFESSION

- I. In the following series of questions or statements, based on the new ABA Commons and Disciplinary Rules, indicate the most correct answer by placing the appropriate letter of the alphabet behind the number of the question, in series, in the first page of your examination book.
 1. If a lawyer had made a materially false statement in, or if he had deliberately failed to disclose a material fact requested in connection with, his application for admission to the bar:
 - a. He is subject to discipline.
 - b. He must be disbarred.
 - c. He should be disbarred.
 - d. None of the above.
 2. A lawyer shall not:
 - a. Violate a Disciplinary Rule.
 - b. Circumvent a Disciplinary Rule through the actions of another.
 - c. Engage in illegal conduct involving moral turpitude.
 - d. Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
 - e. Engage in any of the above.
 3. A lawyer possessing unprivileged knowledge or evidence concerning another lawyer, upon request of a tribunal empowered to investigate or act upon the conduct of lawyer:
 - a. Shall reveal fully such evidence.
 - b. Is ethically bound not to reveal such evidence.
 - c. May reveal it or not as he chooses.
 4. As to publicity generally:
 - a. A lawyer may prepare and have published a professionally self-laudatory communication calculated to attract clients if it is done in a restrained and dignified fashion.
 - b. A lawyer may announce the opening of an office to practice law in a dignified newspaper advertisement.
 - c. A lawyer shall not compensate representatives of the news media in anticipation of or in return for professional publicity in a news item.

5. A lawyer may:
 - a. Give clients a calendar which has a dignified announcement at the bottom that it is given with his compliments.
 - b. Send to regular clients a brief professional announcement card stating that a new associate has joined his firm.
 - c. Place a small sign at the entrance to his street announcing that his office is located one block to the south.
 - d. Do none of the above.
6. A lawyer who is a member of a large firm is elected to Congress:
 - a. Must not permit his name to remain in the name of the law firm.
 - b. Must not permit his name to remain in the name of the firm if he does not actively and regularly practice law as a member of the firm.
 - c. Must resign from the firm and have his name removed as one of the members.
 - d. None of the above are applicable.
7. A group of lawyers are practicing in Washington, D. C. and Atlanta, Ga. They decide to form a partnership:
 - a. They cannot do so.
 - b. They may if each of them is admitted to practice in both jurisdictions.
 - c. They may do so if in all enumerations of the partners the jurisdictional limitation of those not licensed to practice in both is made clear.
 - d. They may do so only if the enumerations of the partners in each jurisdiction lists only those admitted to practice in that jurisdiction.
8. A lawyer in private practice:
 - a. Shall not practice under a trade name except those practicing as members of a professional corporation or association may contain P. A. or P. C.
 - b. May use in connection with his name an earned degree indicating his training in the law.
 - c. Shall not hold himself out as having a partnership with other lawyers unless they are in fact partners.
 - d. All of the above are applicable.

9. A lawyer may cooperate with the legal services activities of a legal aid office or public defender office:
- Operated or sponsored by a duly accredited law school.
 - Operated or sponsored by a bona fide non-profit community organization.
 - Operated or sponsored by a governmental agency.
 - All of the above.
 - A. & B. but not C.
10. A lawyer who has given unsolicited advice to a layman that he should obtain counsel or take legal action shall not accept employment resulting from that advice, except that:
- A lawyer may accept employment by a close friend, relative or former client, if the advice is germane to the former employment.
 - A lawyer may accept employment by a close friend or relative but not a former client whether or not the advice is germane to the former employment.
 - There are not exceptions.
11. A lawyer may not hold himself out publicly as a specialist or as limiting his practice except:
- He may be listed in a reputable law list with a statement that his practice is limited to one or more fields of law.
 - He may permit his name to be listed in lawyer referral service offices according to the fields of law in which he will accept referrals.
 - He may hold himself out as a specialist if certified as a specialist in a particular field of law by the authority having jurisdiction under state law over the subject of specialization by lawyers but then only in accordance with the rules prescribed by that authority.
 - All of the above.
 - None of the above.
12. a. A reasonable contingent fee is permissible in civil and criminal cases.
- A reasonable contingent fee is permissible in civil cases only.
 - A contingent fee must bear some reasonable relationship to the amount of work done.
 - The contingent fee contract is not authorized in many American jurisdictions.

13. Division of fees among lawyers:

- a. It shall never be done.
- b. May be done with the approval of the client, when the division is in proportion to the services performed by each and the total fee charged the client is reasonable.
- c. May be done without the approval of the client if the division is in proportion to the services performed by each and the total fee charged the client is reasonable.

14. a. A lawyer shall never enter into an agreement with another lawyer that restricts his right to practice law after termination of the agreement.
- b. He may do so if the it is a condition to the payment of retirement benefits.
- c. He may do so if the limitation is to a small area.

15. Acceptance of employment generally:

- a. A lawyer may accept employment if he evaluates the facts as creating a good cause of action regardless of the motives of the client.
- b. He may accept employment even though he knows that a claim or defense is not warranted under existing law and even though he can't make a good faith argument that such existing law should be extended modified or reversed.
- c. A lawyer shall not represent a client merely for the purpose of harassing or maliciously injuring another person.

II. In the following series of statements based on the new ABA Commons and Disciplinary rules indicate whether the question is true with a T or false with a F by placing one or the other behind the number of the question, in series, in the second page of your examination book.

- 1. A lawyer shall never withdraw from employment in a proceeding before a tribunal without the tribunal's permission.
- 2. An agreement of a lawyer with his firm may provide for the payment of money over a reasonable period of time after his death to his estate or to one or more specified persons.
- 3. A lawyer may form a partnership with a non-lawyer if the activities of the non-lawyer are merely incidental to the primary purpose of practicing law.

4. A lawyer may reveal confidences or secrets of clients with their consent and after a full disclosure to them.
5. A lawyer may reveal confidences or secrets of his client if it is necessary to collect his fee.
6. A lawyer shall never accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property or personal interests.
7. Generally, a lawyer shall not accept employment if he knows that he or a member of his firm will be called as a witness for the client in contemplated litigation.
8. A lawyer may advance to his client the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, if the client remains ultimately liable for such expenses.
9. Prior to sentencing but after a finding of guilty in a criminal case, a lawyer may enter into an arrangement with his client by which the lawyer acquires a 1/3 interest in publication rights to the story of the crime which the client committed.
10. Except with the consent of his client, after full disclosure, a lawyer cannot accept compensation for his legal services from anyone other than his client.
11. A lawyer may exercise his professional judgment to waive or fail to assert a right or position of his client.
12. A lawyer should not file a suit when he knows that such action would serve merely to harass or maliciously injure another.
13. A public prosecutor must reveal to the defense evidence, known to the prosecutor that tends to negate the guilt of the accused.
14. A lawyer may threaten to bring criminal charges to gain an advantage in a civil matter.
15. In final argument, counsel may assert his personal knowledge of the facts in issue.

III. Admission to the Bar in the State of Marshall is administered exclusively by the Supreme Court. There is no provision in the State's Constitution or in its statutes giving the Court this power. However, the general grant of constitutional power and authority to the Supreme Court is typical of that found in most state constitutions. The Supreme Court has promulgated a set

of rules delegating to the State Bar and its Board of Bar Examiners the authority and responsibility for administering bar examinations and for otherwise determining the fitness of individual applicants for admission to the bar under the rules of the Court.

In its formal rules the Court has provided that an applicant must be a ^{#1}graduate of a law school approved by the American Bar Association and also that he must be a ^{#2}graduate of an accredited undergraduate college or university. It is provided further that an application for admission to the bar must be accompanied by a ^{#3}certificate of an attorney ". . . of this state that the applicant is a person of good moral character" and that the applicant must furnish other evidence of his good moral character.

Karl Katz, a graduate of La Somnus Law School which is approved by the ABA, has made application to Board of State Bar Examiners to take the examinations for admission to the State Bar. In his application he failed to answer the question, "are you now or have you ever been a member of an organization which advocates the violent overthrow of the governments of the United States or the State of Marshall?"

On his application Katz explained that he attended undergraduate school at La Somnus University for two years and because of his brilliant record was admitted to law school, where he graduated first in his class, before he obtained an undergraduate degree. Katz did not furnish a certificate of his good moral character from an attorney practicing in the state but furnished twenty such certificates from other eminent citizens residing in the state. There is no evidence to show whether or not he ever belonged to an organization that advocates the violent overthrow of the U. S. or Marshall.

The Board of Bar Examiners refused Katz's application giving as their specific reasons:

- (1) Katz failed to show that he was of good moral character.
- (2) He failed to show that he did not advocate the overthrow of the governments of the United States and Marshall by unconstitutional means.
- (3) That by his failure to answer all the questions on the application he obstructed their investigation of his moral character.

(4) That he did not meet the educational requirements of the State Bar of Marshall.

Katz ultimately appeals adverse decisions the U. S. Supreme Court.

What questions are presented for decision in this case; how should they be decided and why?

IV. In a complaint by a bar association to enjoin the unauthorized practice of law it was established that the defendant real estate firm, without the assistance of a lawyer, completed all forms necessary to complete the transaction, i.e. the contract, the deed, the mortgage and the note were all accomplished by agents of the defendant by filling in blanks in forms which had been drafted by licensed attorneys. In lieu of a title search the defendant relied upon a policy of title insurance applied by the seller. Should the defendant be enjoined? Why? If not, why? Discuss the relative merits and demerits of both sides.

V. Herman Lushwell brought an action in chancery against attorney Harry Livewright to cancel and annul a retainer agreement entered into between the two on July 4, 1968. For several years prior to that time Livewright had advised and consulted with Lushwell on various legal problems for which Lushwell was billed "for legal services". Prior to July 4, 1968 Lushwell told Livewright that he was being sued by the Rockford Products Company, to enjoin and restrain him from selling one thousand shares of capital stock of the said company and to compel him to first offer the stock to the company in accordance with a certain agreement between them.

On July 4, 1968, when Lushwell had been drinking quite heavily, Livewright had him execute a retainer agreement, in which Lushwell agreed to compensate Livewright with 300 shares of the stock if Livewright should be successful in defending the action by Rockford Products. The stock is valued at fifty dollars per share. If Livewright should be unsuccessful in defense of the suit, it was agreed that Lushwell would pay him \$500.00 plus all expenses of the suit.

After expending ten hours in office research and drafting, Livewright submitted a motion to dismiss the action by Rockford Products and the motion was summarily granted. There was no appeal.

Should the retainer agreement be cancelled? Why? If not, why not?

VI. The Little Man's Marching and Chowder Society, a social group which meets each Friday night at a local beer emporium known as The Door, agreed that from time to time members of their group were in need of legal services as a result of their actions in relation to the proprietor of The Door and the local gendarmes. They agreed to hire attorney Tipple to represent individual members of The Society in defending themselves against any actions arising out of their Friday night sessions and to pay his fees from the treasury of the Society. It was further agreed and understood that The Society would in no way influence Tipple's actions and that he would be responsible to the individual member he was representing and to no one else. It was understood that the individual member, so availing himself of Tipple's services, would not be required to reimburse The Society for his fee.

The State Bar Association filed an action to enjoin The Society from engaging in these practices alleging that they constitute the unauthorized practice of law by The Society.

What result? Why? Discuss.