

**BLTC-8e Appendix E:
Sample Answers for End-of-Chapter *Hypothetical
Questions with Sample Answer***

Chapter 11: Capacity and Legality

11.2 Hypothetical Question with Sample Answer

A famous New York City hotel, Hotel Lux, is noted for its food as well as its luxury accommodations. Hotel Lux contracts with a famous chef, Chef Perlee, to become its head chef at \$6,000 per month. The contract states that should Perlee leave the employment of Hotel Lux for any reason, he will not work as a chef for any hotel or restaurant in New York, New Jersey, or Pennsylvania for a period of one year. During the first six months of the contract, Hotel Lux extensively advertises Perlee as its head chef, and business at the hotel is excellent. Then a dispute arises between the hotel management and Perlee, and Perlee terminates his employment. One month later, he is hired by a famous New Jersey restaurant just across the New York state line. Hotel Lux learns of Perlee's employment through a large advertisement in a New York City newspaper. It seeks to enjoin (prevent) Perlee from working in that restaurant as a chef for one year. Discuss how successful Hotel Lux will be in its action.

Sample Answer:

Contracts in restraint of trade are usually illegal and unenforceable. An exception to this rule applies to a covenant not to compete that is ancillary to certain types of business contracts in which some fair protection is deemed appropriate (such as in the sale of a business). The covenant, however, must be reasonable in terms of time and area to be legally enforceable. If either term is excessive, the court can declare that the restraint goes beyond what is necessary for reasonable protection. In this event, the court can either declare the covenant illegal or it can reform the covenant to make the terms of time and area reasonable and then enforce it. Suppose the court declares the covenant illegal and unenforceable. Because the covenant is ancillary and severable from the primary contract, the primary contract is not affected by such a ruling. In the case of Hotel Lux, the primary contract concerns employment; the covenant is ancillary and desirable for the protection of the hotel. The time period of one year may be considered reasonable for a chef with an international reputation. The reasonableness of the three-state area restriction may be questioned, however. If it is found to be reasonable, the covenant probably will be enforced. If it is not found to be reasonable, the court could declare the entire covenant illegal, allowing Perlee to be employed by any restaurant or hotel, including one in direct compe-