

Exam 2**Question 1**

Lawyer represents Client in the defense of a personal injury action brought by Plaintiff. Client had given Plaintiff the use of Client's cabin in the woods. When Plaintiff arrived at the cabin, he suffered a serious injury when one of the wooden planks in the cabin's front porch gave way. Client was adamant that the porch was properly constructed and that Plaintiff must have concocted the story about the board in order to hide Plaintiff's own carelessness. Plaintiff's attorney contacted an expert engineer to examine the porch. Two days before the engineer was scheduled to arrive, Lawyer sent Investigator, an employee of Lawyer, to examine the porch. Investigator reported to Lawyer that the porch was constructed of substandard material and a board had obviously come loose. The next day, before engineer's appointment, a brushfire destroyed thousands of acres of forest, including the Client's cabin. A careless camper had caused the fire. Lawyer never advised Plaintiff's attorney of Investigator's findings and a verdict was entered for the defense at trial.

Is Lawyer subject to discipline?

- A. Yes, since the information withheld was not subject to the duty of confidentiality.
- B. Yes, since he assisted Client in perpetrating a fraud on the court.
- C. No, if Client truly believed the porch was properly constructed.
- D. No, because the information was subject to the duty of confidentiality.

Question 2

Xact and Young had been partners in Xact & Young Law Firm for the past 25 years. Xact recently died, but Young decided to continue the business anyway. Young became very lonely in the office by himself, so he advertised, "Office space for rent. Rent on a monthly basis. Office rental includes use of law library and secretary." Zevon rented the available office space and set up his legal practice. Young and Zevon do not represent each other's clients, nor do they share any fees paid by their respective clients. Xact had a new sign made for the entrance of the firm labeled, "Law Firm of Xact, Young & Zevon."

Is Xact subject to discipline?

- A. Yes, because Zevon is not a partner of Xact.
- B. Yes, because Young died prior to the arrangement between Xact and Zevon.
- C. No, because Xact and Young had been partners for the past 25 years.

- D. No, because Xact and Zevon were sharing office space, the law library, secretarial services.

Question 3

Defendant is the Treasurer for City X. Attorney is defending Defendant, who was charged with embezzlement after it was discovered that certain city funds were missing. During the initial consultation with Attorney, Defendant agreed to pay Attorney her usual hourly fee on a monthly basis.

Due to the complexity of the case, the bills began to stack up. Defendant requested that, rather than paying Attorney's hourly fee, Defendant assign the rights to any movies, television broadcasts, books, etc. regarding Defendant's life to Attorney should Attorney continue to defend him until the trial was over. Attorney told Defendant that he would think about it, but told Defendant that he should seek advice from other counsel prior to entering into such agreement.

Is Attorney subject to discipline if he agrees to Defendant's offer?

- A. No, if Defendant seeks the advice of counsel prior to finalizing the agreement.
- B. No, because a client may agree to any fee arrangement with his attorney.
- C. Yes, because at the time of the agreement, Attorney's representation of Defendant had not concluded.
- D. Yes, because it is possible Attorney would make more money under the new agreement than the old one.

Question 4

Attorney represents Temporary Employment Agency, Inc. in a wrongful termination lawsuit brought by Head Hunter Hal. Hal claimed that he was wrongfully terminated because he allegedly failed to meet his quota repeatedly for the past several months.

Attorney sought the employment records from Temporary Employment Agency, Inc. These records included documents that indicated how many temporary employees were placed each month. Attorney discovered that not only did Hal meet his quota, he out-performed the other head hunters at Temporary Employment Agency, Inc. Thus, it is Attorney's belief that the Agency should accept liability and settle with Hal.

Attorney should:

- A. Notify Temporary Employment Agency, Inc. of all options with the