

SEMESTER II SUMMER EXAMINATIONS 1998 / 99

**BACHELOR OF CORPORATE LAW - THIRD YEAR
OCCASIONAL STUDENTS**

LEGAL AND BUSINESS ETHICS

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Time Allowed: **TWO** Hours. ERASMUS students have 2½ Hours.
Answer **THREE** Questions. **One** question to be answered from **Part A** and **One** question to be answered from **Part B**.

You should identify the issues presented by the fact scenarios you have chosen. Answer any questions explicitly asked, referencing the ethical codes where appropriate. Analyze the questions in the light of the ethical theories we have studied this semester.

PART A (Legal Ethics)
(Answer **One** Question Only)

1. You represent a defendant in a criminal matter. You have repeatedly requested that the prosecution provide all material in their possession that is exculpatory to your client, i.e. that tends to show your client may be not guilty of the charged conduct. You have been told repeatedly that no such information exists. One day in your office, a fax arrives from the office of the public prosecutor. The fax contains case materials related to your client, clearly marked with the words "privileged and confidential government documents". You begin to read the documents and realize that there is much information contained in them which could exonerate your client. You then take a closer look at the cover sheet. The cover sheet indicates that the fax was intended to be faxed to the prosecutor, herself, at a number slightly different from your own. What are your ethical obligations at this point? Do you continue to read the documents? If not, why not? And, what do you do with the information you have already read? If so, why? What do you do with the documents in your possession?

You are a solicitor. You are speaking with a client with whom you have represented in business dealings for a long time. He is very upset with a recent judgment of the Court that has gone against him. You are discussing that decision with him and he tells you that he is going to blow up the judge in his car. You know your client to be a hot head who often makes dramatic statements. He has no history of violent behavior of which you are aware.

What are your ethical obligations in this matter? To whom do you owe these obligations? Discuss this issue in relation to the rules governing professional conduct and the ethical theories we have discussed in class. How do these theories contrast with the ethical rules? Would your analysis differ if you learned that your client was seeing a psychiatrist for help with anger management? In what way would it differ?

p.t.o.

3. You are a solicitor in Ireland. While discussing your client's upcoming sentencing for an assault, he informs you about other crimes, including murders, that he has committed. He says he doesn't want the court to find out about these. He is concerned about future prosecutions and about his sentence (on the current charge) being enhanced because of these other offences. He laughingly tells you that there is a guy on death row in Texas for a crime he committed. He describes the Texas homicide to you in brutal, gory detail, providing the victim's name and the date of the homicide. You later check into the matter and learn that someone is on death row for this offence. That man has maintained his innocence from the moment of his arrest. You also learn that your client was in Texas at the time of the homicide. To make matters worse, the Texas inmate is set to be executed in two weeks time.

What do you do? What are your ethical duties? To whom do you owe ethical duties? What if your client dies one week before the execution? How are these issues related to your personal morality? Reference some of the ethical theories we have discussed in class. How do these theories contrast with the ethical rules?

P A R T B (Business Ethics)
(Answer One Question Only)

4. You work for an advertising agency in Ireland that recently handled a very successful advertising campaign for Guinness. You are proud of the work you did on the campaign; it increased sales of Guinness while promoting responsible drinking. Your company has just landed a huge contract with Gullo Wines, based in California. Gullo is a family company and they were impressed by the way you promoted Guinness. They have asked specifically for you to handle their account. This will mean an increase in salary for you and a chance for your family to have many of the things that you want them to have.

You meet with Gullo and they tell you that they want your ad campaign to feature family gatherings and responsible drinking. It is the image of which they want people to think when they see the name Gullo. They want their wines advertised in many markets throughout the world. Other than that, they leave the content and strategy up to you.

Almost as an afterthought, they mention that they have this cheap "wine," B-52, that they also want you to introduce into a number of specific markets, in Ireland and certain other countries. It is not to be marketed under the Gullo name, but that of a subsidiary company. Previously, B-52 has been sold only in the United States. B-52 is not truly a wine, but a distilled liquor flavored like cheap wine. Its alcohol content is very high and it costs very little to buy. The only people who drink this beverage are alcoholics who cannot afford anything else. Gullo wants you to pursue that market vigorously in Ireland and some countries in the former Soviet bloc. Gullo executives are very excited about the profit potential for B-52.

What are your ethical obligations in this situation? to whom do you owe these obligations? Analyze your actions, those of Gullo and your advertising company in light of some of the ethical theories we have discussed throughout the year.

p.t.o.

5. You are an executive working for a company that manufactures and markets cellular telephones in Ireland. The Celtic Tiger has recently begun to limp a little, reflecting global economic trends. Markets are jittery and businesses are failing worldwide. This appears to be a temporary "adjustment" and it is hoped that the economic downturn will soon end. The cellular phone market has been one of the hardest hit. Because several similar companies have failed recently, the remaining manufacturers have become nervous and a destructive price war has begun. People are selling under cost and a general failure of the industry is feared. Competition from China is a very serious factor, although currently the quality of Chinese phones is not equal to those made in Ireland. (The Chinese are using forced prison labor to make their components and have an easy time producing their products more cheaply than those made in Ireland.)

Many jobs will be lost in Ireland, including yours, if the industry goes under. The remaining Irish manufacturers and marketers of cellular phones convene a meeting. Someone proposes announcing industry "norms" for prices. If followed, these prices will provide a fair profit for the companies involved, will not gouge the consumers and will be able to compete with the Chinese goods (the Chinese have to contend with shipping costs, import fees and poor quality). The idea is to set these price norms temporarily until the economy rights itself, then competition will begin again in earnest. Discuss the ethics of the proposal, referencing the ethical theories we have discussed in class during the year. What effect does the fact that China is using forced labor have on your analysis?

6. You are the business manager for a construction company. You have just been told by your boss that the company landed a very lucrative development contract in County Clare. The boss shows you the plans for the job and you realize that the land that is to be developed is in the Burren. The land has spectacular views of Galway Bay, the Atlantic and the Aran Islands, on the occasional clear day. You happen to know that this land was previously protected from development under European treaties because the Burren is a fragile ecosystem. You raise this issue with your boss. She tells you "not to worry" because "it has all been taken care of." You appear perplexed. She tells you the landowner approached a member of the Dail in an attempt to have the land in question "declassified." The distinguished member made it happen. For a significant "donation," the boundaries of the Burren have been redrawn, excluding this piece of land from its domain and, therefore, from the meddlesome treaty protection. This was all done very quietly. Your boss tells you "it is over and done with." She assures you that everything is legal. She wants you to arrange the loans for development of guest houses and to make sure the ground is broken before any environmentalists or neighbors seek to challenge this development.

Discuss the ethical considerations involved in your work on this matter. To whom do you owe ethical obligations? Refer to the ethical theories we have discussed throughout the year.