

*Chief Justice's Commission on Professionalism*

# POP- UP CLE

## Perspectives on Professionalism & Ethics

*February 22, 2022*

*2:55 pm - 5 pm*

*Virtually Online via Zoom.us*



# Hypothetical Problems

# Hypothetical Problem 1

Attorney's Spouse is the office financial manager. Spouse has an undergraduate accounting degree and an MBA. Prior to working with Attorney's firm, Spouse worked for seven years at a Bank. The Bank also held the law firm's IOLTA and operating accounts.

Attorney and Spouse also opened a coffee shop for which Spouse handled all of the operations. Attorney and Spouse held monthly meetings to review the Firm's account reconciliations; but the Spouse presented altered bank statements to remove the fact that Spouse had been stealing money out of the IOLTA account and diverting the proceeds to the coffee shop. In addition, Spouse created an automatic overdraft protection so that overdrafts were covered and no notices of overdrafts went to the State Bar's Trust Account Overdraft Notification Coordinator. After a late payoff, the Firm's title insurance company performed an audit and discovered that the IOLTA account had been overdrawn 50 times.

In all, Spouse managed to steal over \$2.3 million dollars from the IOLTA Trust Account.



## Hypothetical Problem 2

Your client is marketing a property for sale and there is only one bidder. They want you to try to help them get the price up by speaking to the one bidder. Your client wants you to tell the bidder that there are lots of competing bids, but if they go up in price, they will win the bid.

What should you do?



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## Hypothetical Problem 3

You represent Jackie (a fellow attorney) who is a defendant in a lawsuit that claims Jackie infected other colleagues with COVID-19 during an in-person Bar Association Happy Hour in the State of Milton, in the Country of Oz. The event was held outside on the deck of a popular restaurant during the summer of 2020. The Plaintiff, Alex, suspected Jackie of having COVID-19 because Jackie claimed to feel “warm” on that day while everyone else at the event said it was a cool and pleasant day. The day after the Happy Hour, Jackie took a COVID-19 test that came back negative and you provided that test result to opposing counsel. The court ordered the parties to mediation.

On the day of the mediation, shortly before the mediation begins, Jackie tells you that a second COVID-19 test, taken 8 days after the Happy Hour, came back positive. Jackie asks you not to disclose this information during the mediation.

During the mediation, opposing counsel asks: “Jackie, have you tested positive for COVID-19?”

Jackie responds: “My attorney gave you the COVID-19 test I took the day after the Happy Hour.”

You (Jackie’s attorney) then immediately ask for a break. After the break, opposing counsel moves on to another topic. You and Jackie do not say anything further about Jackie’s COVID-19 test.



# Hypothetical Problem 4

## Part A

You represent Company P which is in the business of selling pet care products. You are working on a deal with a lawyer who represents Bad Dog, one of Company P's competitors, but your deal with that lawyer does not involve Bad Dog. The lawyer sent you a revised asset purchase agreement but accidentally picked up board minutes for the last board meeting for Bad Dog which contains information that would be helpful to Company P. You open up and read the board minutes before you realize what they are and close up the document.

What do you do?

## Part B

What if you also have a broker's license and the inadvertently sent email is from another broker but contains information useful to a customer who has engaged you as a broker.

