

Chapter 01 Ethics and Real Property Practice

True / False

1. The professional code of ethics treats the entire body of attorneys in a firm as one for conflict of interest purposes.

a. True

b. False

ANSWER: True

2. Confidentiality is a rule of evidence law that prevents a court from compelling the revelation of communications between attorney and client.

a. True

b. False

ANSWER: False

3. In a contingency fee matter, a client pays for costs incurred on behalf of the client, whether or not the client wins the case.

a. True

b. False

ANSWER: True

4. Retainer amounts may be put toward fees, costs, or both.

a. True

b. False

ANSWER: True

5. Paralegals are permitted to draft and sign letters to clients confirming the client's decision to decline representation.

a. True

b. False

ANSWER: False

Multiple Choice

6. A routine real estate closing may be handled on:

a. a flat fee or hourly fee, but not a contingency fee.

b. a flat fee or contingency fee, but not an hourly fee.

c. an hourly fee or contingency fee, but not a flat fee

ANSWER: a

7. Most real estate litigation is billed:

a. on a flat fee.

b. at hourly rates.

c. on a contingency fee.

ANSWER: b

8. The unauthorized practice of law includes:

- a. negotiating settlements and conducting client interviews.
- b. making strategy decisions in client matters and setting fees.
- c. accepting cases and assisting at depositions

ANSWER: b

9. The client is the individual or entity:

- a. who hires the attorney.
- b. paying the legal fees.
- c. requiring the legal representation.

ANSWER: c

10. The following must be deposited in a client trust account:

- a. deposit money and retainer fees.
- b. closing proceeds
- c. both a and b

ANSWER: c

Completion

11. A _____ is a method of keeping track of priorities and deadlines.

ANSWER: tickler system

12. The tactic whereby an attorney or paralegal is isolated from all contacts with a client's case is called a _____.

ANSWER: Chinese Wall

13. Each client project is assigned its own _____.

ANSWER: matter number

14. The American Bar Association's Model Code of Professional Responsibility and the American Bar Association's Model Rules of Professional Conduct are, together, commonly referred to as _____.

ANSWER: the ABA standard

15. To act _____ means that an attorney not only must have the necessary legal skill but also must devote adequate time and thorough preparation to a client matter.

ANSWER: competently

Subjective Short Answer

16. What conduct or practices constitute engaging in the unauthorized practice of law?

ANSWER: The unauthorized practice of law includes such practices as advising a client of his or her legal rights and remedies, representing a client in court, making strategy decisions in client matters, negotiating settlements, accepting cases, and setting fees.

17. What tasks or responsibilities may a paralegal perform under the supervision of an attorney?

ANSWER: Paralegals may perform a multitude of functions, such as conducting client interviews, locating and interviewing witnesses, conducting factual and legal research, drafting legal documents and correspondence, and assisting at depositions, hearings, trials, and real estate closings.

18. What is meant by the term conflict of interest? Define the term, and provide an example.

ANSWER: A basic definition of a conflict of interest is any situation in which an attorney's professional judgment might be affected because of business or personal interests. Taking on a new client who wishes to sue a current client is an example of a conflict of interest inasmuch as an attorney in this situation is prevented from properly representing one party without adversely affecting the other.

19. What steps should be taken after the initial client conference if (a) the client decides to hire your firm, (b) the client is undecided about whether or not to proceed, or (c) the client declines representation?

ANSWER: a.) Should the client decide to hire your firm to represent him or her in a particular transaction, the attorney and client will sign a retainer agreement before the client leaves the office, and the client will receive a copy of the agreement for his or her files. If a retainer fee is required, it will be collected at this time. Before the client leaves the office, you or your supervising attorney will review with the client any additional information the client must provide before the client matter can proceed further. Additionally, a follow-up letter will be sent to the client as a reminder. b.) If the client is undecided about whether or not to proceed, the client file should be retained as an inactive file for a prescribed period of time. Prior to the expiration of this time period, a letter should be sent to the prospective client, informing him or her that the firm will be closing the client file if it does not hear from the client by a set date. c.) Should the client decide not to hire the firm, the file should be closed, but not without first sending the client a letter confirming that the client met with the attorney and declined representation.

20. Provide three examples of problematic situations that may confront a real estate attorney.

ANSWER: Possible answers: (1) a seller who hires an attorney to represent him or her in a closing and a buyer who requests that the attorney represent both the buyer and the seller, (2) an attorney who is hired by one party and agrees to prepare closing documents

for the other party for a small fee, (3) a buyer or seller retains an attorney who is then requested to represent the lender financing the transaction, (4) an attorney who is also a title agent where the attorney represents the seller but also prepares the title policy for the buyer who pays for the policy, and (5) an attorney representing one party who is asked for legal advice by an unrepresented party.