

## Fact Scenario for Discussion

1. Deceased Wife's son seeks your representation. Husband and Wife had a joint living trust established in 1995. Wife's husband predeceased her. Husband and Wife left Son and three daughters as their children. Until husband's death, the joint trust provided equal shares for each of the children after the death of the survivor of H and W. After H's death, W amended Trust in 2012 to delete oldest daughter (OD) as a beneficiary and to leave one specific real estate lot to Son. Son would like you to represent him in his capacity as trustee and as a beneficiary of the Trust.

- a. Are there any ethical issues that you should consider before accepting the appointment?
- b. Is there a better way to represent the Son?
- c. Is there any discovery (informal or formal) you should consider before deciding whether to represent Son?

2. After you accept Son as client, OD claims that Wife was incompetent and Son used undue influence on her.

- a. Does this affect your ethical duties in representing Son?
- b. If so, how?

3. Later Son meets with you. By this time, you have calculated the net worth of the Trust at \$2.5 Million. Son advises you that, in light of the pending litigation with sister, he decided to buy a "sure thing" initial stock offering for \$100,000. He expected to receive as much as \$200,000 within 6 months. Son just learned the promoter was indicted for federal mail fraud and related charges, and the stock is no longer trading and is worthless.

- a. What ethical obligations do you have regarding Son's disclosure?

4. Later, Son meets with you, and after a long story describing a host of problems in his personal life, he discloses that he used \$2,000 of the Trust's money for his personal expenses.

- a. What ethical obligations do you have regarding Son's disclosure?
- b. Would your obligation be different if he disclosed he had taken \$20,000 or \$200,000?

5. When OD's claims go to trial, the Judge finds Wife was incompetent at time amendment was made, but Judge holds Son was not guilty of any undue influence.

- a. How will the Court's decision affect the payment of your attorney fees?
- b. Would it make any difference if the Court had found Son guilty of undue influence?
- c. What if the Court had found Son guilty of fraud or duress?