UNIVERSITY OF MIAMI SCHOOL OF LAW

PROFESSIONAL RESPONSIBILITY & ETHICS PROGRAM

Legal Ethics & Technology for the Bankruptcy Lawyer
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Act I

Hamilton Takes a Shot

Alexander Hamilton, a Florida lawyer, guarantees a large bank loan to save his friend Hercules Mulligan's tailoring business.

A few years later, Mulligan's business fails, and the bank seeks payment from Hamilton. Shocked, Hamilton considers filing for bankruptcy. Hamilton googles Aaron Burr, a former law school classmate.

Burr's LinkedIn profile includes links to his firm website and blog, "This Week in South Florida Legal News." Burr has posted many articles on LinkedIn that contain general bankruptcy information and the dates of his speaking engagements. He also has posted about several cases that he has handled both for corporations and individuals.

Burr is listed on AVVO and Yelp, where he has many 5-star reviews and a few negative ones. Burr generally responds to the reviews with thanks. However, on one particularly negative review, Burr responded, "So sorry that you feel that way, but if you had put your money in the bank instead of the casino, then you might have had a better result."

Based upon Burr's glowing online profile, Hamilton contacts Burr. After consulting with him, Hamilton elects to file for Chapter 7 Bankruptcy.

Consider the ethical implications of:

1. Burr's use of LinkedIn and the connections to his law firm blog and website.

2. Burr's response to the negative review.

<u>Act II</u>
Falling Apart at the Seams

Hercules Mulligan's entrepreneurial spirit fell short and he is overloaded with debt. Realizing he'd rather dedicate his time to social causes rather than sewing pants, Mulligan decides to quit his tailoring business. He needs a fresh start and is seeking a low-cost bankruptcy lawyer to file a Chapter 7 Bankruptcy petition. After a Google search, Mulligan consults several local lawyers who offer him various payment options.

M. Lafayette Law Offices

Marquis de Lafayette offers Mulligan a dual contract option. Lafayette will provide reduced legal services after Mulligan pays a partial fee. Lafayette explains that he will file a skeleton petition with a list of creditors, along with a motion to pay the filing fee in installments. He will not perform any other services until they meet again and sign a second retainer agreement. The agreement will obligate Mulligan to pay the remainder of the fee in installments. Mulligan's total cost will be $1,500.

What are the ethical implications of Lafayette's dual contract option?

Yorktown, LLP

Attorney John Laurens offers Mulligan a zero-down option. Laurens does not require any payment to begin the bankruptcy filing. Instead, Mulligan will be required to pay Laurens ten monthly payments of $160, which will begin a month after the filing date of the petition. Mulligan's total cost will be $1,600.

What are the ethical implications of Yorktown's zero down option?

Schuyler Fabricators, PLLC

Schuyler Fabricators, PLLC, is a New York-based firm that practices law primarily through the Internet. Because Schuyler Fabricators has partners across the country splitting fees, it charges less than its competitors. Schuyler Fabricators promises to connect Mulligan with a Florida lawyer. Mulligan's total cost will be $800.

What are the ethical implications of Schuyler Fabricators, PLLC's arrangement?

Seabury & Reynolds, LLP

Samuel Seabury suggests that Mulligan file a Chapter 13 Bankruptcy petition. Seabury explains that although the attorney's fees for filing are more expensive, Mulligan will not have to pay any fees now. Instead, Mulligan will pay Seabury over time as part of his bankruptcy plan. Seabury also explains that Mulligan will likely be entering into a three to five year repayment plan. Mulligan's total cost will be $3,200.

What are the ethical implications of Seabury suggesting Chapter 13 Bankruptcy and his method of getting a fee?

<u>Act III</u>

George Washington Loses His Cool

George Washington enters into a contract with King George III, LLC, to build a new library. King George III fails to adhere to the terms of the contract, and George Washington sues King George III for breach of contract in local state court. King George III files for Chapter 11 Bankruptcy and obtains an order to stay the state court case.

Washington hires his friend, Thomas Jefferson, to represent him. Due to COVID-19, Jefferson is working from home. He asks his daughter to borrow her laptop, because Jefferson's work laptop has died. To prepare for a proceeding the next day, Jefferson asks his Alek Echo to call his client.

The next day, he posts on social media, “I have learned that Bankruptcy Court is a bigger zoo than the Court of Chancery in England. If the judge does not rule in my client's favor, it is clear that the court has turned a blind eye to fraud in land deals but appears to otherwise be operating one fry short of a happy meal.”

During the virtual adversary proceeding, Jefferson continuously mutters, “Lie, lie, lie.” The judge admonishes Jefferson.

The Bankruptcy Court finds that King George III, LLC, breached the contract. Jefferson goes home and washes down the stress of the proceedings with his favorite homemade martinis while listening to his favorite song, “Take a Break.”

Consider the ethical implications of:

1. Jefferson using Alek Echo to call his client
2. Jefferson using his daughter’s laptop
3. Jefferson’s social media comments
4. Jefferson’s muttering in the virtual courtroom