

MARTIN A-1

Instructions:

Joe Martin was in-house counsel for the Little River Band of Ottawa Indians legislative branch. The tribe's internal politics was very contentious, and numerous times the tribal chief executive attempted to terminate Joe's employment despite not having the legal authority to do so. Eventually, after several years, the legislative branch terminated Joe's contract. Joe filed suit in the tribe's court system, seeking damages for wrongful discharge (a tort). Joe also filed suit in Manistee County Circuit Court, seeking the same damages. It was apparent that neither of his lawsuits had any chance of to be heard on the merits and would be dismissed for procedural grounds (namely, the tribe's immunity from suit).

So Joe became desperate. He allegedly wrote a letter to his former client threatening to reveal confidences he acquired while the attorney for the legislative branch unless the tribe paid him hundreds of thousands of dollars he believed the tribe owed him. He also allegedly physically threatened an attorney retained by the tribe to defend his lawsuits. Obviously, these are all violations of the code of professional conduct, if proven.

You are an attorney with the state bar disciplinary commission. Assume these canons of lawyerly conduct apply:

Preamble

A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's legal affairs and reporting about them to the client or to others.

In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation.

A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

MICHIGAN RULES OF PROFESSIONAL CONDUCT.

Given the previous canons of lawyerly conduct, do you recommend to the state supreme court disbarment or not? Develop two arguments supporting a recommendation of disbarment. Develop an argument against disbarment, and then explain why that argument is weak.

MARTIN A-2

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Joe Martin was in-house counsel for the Little River Band of Ottawa Indians legislative branch. The tribe's internal politics was very contentious, and numerous times the tribal chief executive attempted to terminate Joe's employment despite not having the legal authority to do so. Eventually, after several years, the legislative branch terminated Joe's contract. Joe filed suit in the tribe's court system, seeking damages for wrongful discharge (a tort). Joe also filed suit in Manistee County Circuit Court, seeking the same damages. It was apparent that neither of his lawsuits had any chance of to be heard on the merits and would be dismissed for procedural grounds (namely, the tribe's immunity from suit).

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