

Applicant Number



In re Ace Chemical

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In re Ace Chemical

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FILE

Montagne & Parks LLC
Attorneys at Law
760 Main Street, Suite 100
Essex, Franklin 33702

MEMORANDUM

To: Examinee
From: Lauren Scott, Managing Partner
Date: February 21, 2017
Re: Ace Chemical: potential conflicts of interest

Our law firm has been approached by Ace Chemical Inc., which wants to sue Roadsprinters Inc. for breach of a shipping contract. Ace claims that Roadsprinters failed to timely deliver Ace's goods to a customer. It is likely that Ace has a good case—the contract has a “time is of the essence” clause and delivery of the goods was significantly delayed. The work on this case would be done here at our Franklin office; I would be the lead attorney, and our partner Samuel Dawes would be the lead litigator. The law firm of Adams Bailey serves as Roadsprinters' outside counsel.

As you know, our firm has 400 lawyers in 14 different offices. Recently, we've become aware of certain circumstances that might affect our ability to represent Ace: 1) our office in the state of Columbia represents the Columbia Chamber of Commerce, and Jim Pickens, the president of Roadsprinters, was at one time chair of the Chamber's board; 2) Samuel Dawes once represented Roadsprinters in a trademark registration; and 3) our office in the state of Olympia has interviewed and would like to hire Ashley Kaplan, an attorney who currently works in Adams Bailey's Franklin office.

We will not undertake this representation if barred by the Franklin Rules of Professional Conduct, but we would very much like to take on this client in this matter if it is ethically permissible. We know that Roadsprinters will not waive any conflicts of interest.

Please prepare a memorandum to me analyzing whether any potential conflicts of interest are raised by these three circumstances. If you determine that one or more conflicts of interest exist, for each conflict you should identify the action we need to take to comply with the Rules. Do not draft a separate statement of facts, but be sure to integrate the relevant facts into your analysis. Note that Franklin's Rules of Professional Conduct are identical to the ABA's Model Rules of Professional Conduct and that Franklin Ethics Opinions are persuasive but not binding authority before courts.

Montagne & Parks LLC

MEMORANDUM TO FILE

From: Lauren Scott, Managing Partner
Date: February 17, 2017
Re: Ace Chemical: potential conflicts of interest

Montagne & Parks, through its Franklin office, would like to represent Ace Chemical Inc. in its suit against Roadsprinters Inc. Ace alleges that Roadsprinters breached its contract with Ace when Roadsprinters failed to deliver goods to Ace's customer on time. Roadsprinters is represented by the law firm of Adams Bailey.

Potential conflict: Columbia Chamber of Commerce

Through our office in the state of Columbia, our firm represents the Columbia Chamber of Commerce (Chamber); we have represented the Chamber for the last 10 years. (The Chamber is a membership organization of local businesses that promotes the general interest of the business community.) In the course of our representation of the Chamber, we have lobbied before the Columbia legislature for tax reform. For purposes of this lobbying effort, we received no confidential business information from Chamber members.

In our communications with Chamber members, we clarified that we represented the Chamber, and not the members, in lobbying, and that the content of our communications with members was not confidential. The Chamber and its members acknowledged in writing that our representation was limited to lobbying for the Chamber itself. While we received confidential information from the Chamber about legislative strategies and tactics related solely to tax issues, we received no confidential information from or about any of the Chamber's members.

Roadsprinters has been a member of the Chamber since the Chamber's inception 15 years ago. Jim Pickens has been the president of Roadsprinters for the last 20 years and was chair of the board of the Chamber in one of the years of our representation; however, throughout the lobbying effort, the firm worked primarily with the Chamber's executive director and not with the officers of the board.