Lessons in Legal Ethics: The Limits of Defense

by John Belpedio

Ethical issues are often difficult to differentiate from legal issues. The legal profession monitors it's own professional conduct through codes of professional responsibility. However, as with legal issues, ethics come into interpretation conflicts and many times may end up in a court of law in order to find a workable solution.

This is a case study which allows students to examine behavior of an attorney and decide if his actions were not only ethical, but legal.

Students will:

1. Identify the ethical dilemma as it pertains to an attorney in a real situation.
2. Determine the proper course of action for a court in seeking to discipline an attorney.
3. Develop an understanding for the complexities of legal issues with regards to ethics.

Materials needed: Copies of: **Student Handout: THE LIMITS OF DEFENSE**
Student Handout: CANON OF ETHICS
OVERHEAD: District Court Ruling

Time needed: Two class periods

Grade level: 9th - 12th grades

Procedure:

1. Pose these questions to the class at the beginning of the class period:

Q. To what extent should attorneys go to insure their clients of a fair trial?

Q. Is it appropriate for an attorney to break a law in order to protect his client?

Q. What happens when they do?

2. Divide the class into thirds. One group will be acting as defense attorneys; one group as prosecutors; and the third group as judges.

Procedure cont.

3. Give all the students the **Student Handout: THE LIMITS OF DEFENSE** and have them read. In their groups, have students identify key issues for the defense and prosecution of Richard Ryder. Ryder is being charged with unethical legal practices.

4. Pass out **Student Handout: CANON OF ETHICS** to ***defense*** and ***prosecution*** teams. Have them select two people who will give the oral interpretation for each group. They may use arguments based on the Constitution, Bill of Rights, or the **Student Handout.**

5. The group of students appointed as judges should be informed of their role in deciding the fate of Richard Ryder. The element of precedence weighs heavily, as his conduct can be argued by teams of attorneys to be acceptable or unacceptable. Therefore, the judges must develop a set of criteria by which they will judge the evidence they hear.

6. Arrange the classroom into a moot court, with the judges sitting in the front, two attorney teams on either side, and a podium table set up to address the judges. Each side will be allowed five minutes to present their oral argument to the judges. The students should be reminded that the issue being heard is ethical conduct of Richard Ryder.

7. The judges should be allowed time to prepare a written decision that is presented to the teams. If they find Richard Ryder guilty, an appropriate punishment should be levied.

8. Put up **OVERHEAD: District Court Ruling**. How does the class compare?

Student Handout: THE LIMITS OF DEFENSE

"No lawyer shall commit a crime that reflects adversely on the l awyer's honesty, trustworthiness, or fitness to be a lawyer."

American Bar Association Rules of Professional Conduct. (1983) 8.4 (a)(c).

On August 24th, a man armed with a sawed-off shotgun robbed a branch of the Bank of Virginia of $7,583.00. Included in this currency were $10 bills known as *"bait money,"* the serial numbers of which had been recorded by the bank. On August 26th, Charles Cook rented a safety deposit box at a branch of the Richmond National Bank. Later that day, Cook was interviewed by agents of the F.B.I., who had obtained $348.00 from Cook. Cook telephoned his attorney, Richard Ryder, who convinced the agents to allow Cook to be taken to his office for an interview. Cook insisted to Ryder that he did not rob the bank and that he had won the money that the agents had taken from him in a crap game. Ryder discovered from talking to one of the F.B.I. agents that some of the money obtained was identified as part of the money taken in the robbery of the Bank of Virginia. In further interviews on August 27th, Cook told Ryder that a man offered him $500.00 to put a package in a safety deposit box at the Richmond National Bank. Ryder knew that Cook was under surveillance and suspected that he might try to go to the bank to withdraw the money and dispose of it.

That afternoon, Ryder telephoned a respected attorney friend to discuss the case. Ryder explained that he would take the money from Cook's deposit box and place it in a box in his own name. This, he believed, would prevent Cook from attempting to dispose of the money.

On August 29th, Ryder prepared a document, which Cook cosigned, allowing him entry into Cook's safety deposit box. Ryder took the document to the Richmond National Bank, rented a box in his own name, and entered Cook's box where he found a bag of money and a sawed-off shotgun. Ryder transferred the contents of Cook's box to his own, returned the boxes to the vault, and left the bank.

On September 7th, Charles Cook was indicted for robbery.

On September 12th, F.B.I. agents, with search warrants entered Cook's box and found it empty. They then proceeded to enter Ryder's box and found $5,920.00 of the $7,503.00 taken in the robbery and the sawed-off shotgun.

On September 23rd, Ryder filed a motion to suppress the evidence of the money obtained from Cook on August 26th.

On October 14th, Richard Ryder was removed as an attorney in the case and suspended until further notice.

Student Handout: CANON OF ETHICS

Case Study: *In Re Richard Ryder:* U.S. District Court: Richmond VA. 1967

Four Canon of Ethics were cited by the Court in determining if Richard Ryder should be removed from the roll of active attorneys:

1. "The defense/prosecution of those accused of a crime."

It is the right of the attorney to defend a person accused of a crime, regardless of his personal opinion as to the guilt of the accused. Having begun that defense, a lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits.

2. "How far a lawyer may go in supporting a client's cause."

The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or dishonesty.

A client is entitled to the benefit of any and every remedy and defense that is authorized by law - and he may expect his lawyer to assert every such remedy or defense.

3. "The lawyer's duty in it's last analysis."

It is the duty of the lawyer to preserve his client's confidence. This duty outlasts employment and extends as well to employees.

OVERHEAD: District Court Ruling

United States District Court ruled that the principles listed in Number 2 and 3 of the Student Handout were violated by Richard Ryder.

The Court stated: *"No Canon of Ethics or law permitted Ryder to conceal from the Bank of Virginia its money to gain his client's acquittal.*

In helping Cook to conceal the shotgun and stolen money, Ryder acted outside the bounds of law. He allowed the office of attorney to be used in the violation of law."

The court ruled that Richard Ryder be suspended from the practice of law for a period of eighteen months.