

**MAY 2024**

**UT LAW | CLE**



**TEXAS Law**

The University of Texas at Austin  
School of Law

# **LESSONS LEARNED FROM GCS BEHAVING BADLY (ALLEGEDLY)**

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## **Rules of Professional Conduct**

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## Rule 8.4 – Misconduct

- It is professional misconduct for a lawyer to:
  - violate or attempt to violate the Rules of Professional Conduct,
  - commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, or
  - engage in conduct:
    - involving dishonesty, fraud, deceit or misrepresentation; or
    - that the lawyer reasonably should know is harassment or discrimination in conduct related to the practice of law.

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## Rule 1.13 – Organization as Client

- GCs must report to a higher authority in an organization when the actions of officers or employees:
  - violate a legal obligation to the company,
  - render the company responsible for violating a law, or
  - are likely to result in substantial injury to the company.
- In dealing with an organization's constituents, the GC must explain the organization is their client when the organization's interests are adverse to those of the constituents.

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## Rule 1.13 – Organization as Client

- How does this work when a GC hears about potential wrongdoing in the company?
  - Circumstance in Model Rule 1.13(b):

“If a lawyer for an organization knows that (an officer) is engaged in action...that is a violation of...law that may be imputed to the organization....”

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## Rule 5.1 – Responsibilities of a Partner or Supervisory Lawyer

- Rule 5.1 Permits GCs to be disciplined if the lawyer
  - orders, encourages, or knowingly permits the unethical conduct involved or
  - has direct supervisory authority over the other lawyer, and with knowledge of the other lawyer’s violation of these rules knowingly fails to take reasonable remedial action to avoid and mitigate the consequences of the other lawyer’s violations.

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## Title search: Lessons Learned From GCs Behaving Badly (Allegedly)

Also available as part of the eCourse

[eSupplement to the 20th Annual Mergers and Acquisitions Institute](#)

First appeared as part of the conference materials for the  
46<sup>th</sup> Annual Corporate Counsel Institute session  
"Lessons Learned From GCs Behaving Badly (Allegedly)"