

LAWYERS BEHAVING BADLY: THE CLE

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UT LAW CLE

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1

WELCOME TO LAWYERS BEHAVING BADLY

- *Lawyers Behaving Badly* explores the absurd, unbelievable world of lawyer misconduct.
- Started in mid-November 2022, the podcast reached 100,000 downloads in May 2023.
- Like today, each episode follows the travails of a pseudonymous lawyer making unethical choices and the fallout that ensues.
- We've covered stories of lawyers derailing a covert drug operation, embezzling money to buy Britney Spears tickets, doing dead drops for burner phones, planting drugs on PTA volunteers, and much, much more.

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2

CRIMEAHOLIC: ADDICTED TO CRIMEAHOL

- We'll discuss semi-legendary and infamous former Dallas lawyer, who we will call Alan Attorney.
- Alan began his career in the SEC, culminating his 14 years there as Senior Trial Counsel in Ft. Worth
- He then transitioned to private practice, at the time with Godwin Gruber
- Immediately upon his transition to private practice, Alan played fast and loose with his ethical obligations
 - One of his first cases presented ethical issues based on his prior representation

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3

CRIMEAHOLIC: ADDICTED TO CRIMEAHOL

- Alan began representing a client called Consolidated Sports Media in 2004
- Despite the benign name, Consolidated Sports Media produced a unique product: Race Track Girlz Go Nutz
- Facing a capital crisis, CSM hired Alan for advice on raising funds through a penny stock public offering
 - Immediately, things go off the rails for CSM after their public offering
- Only good things happen at 2:36 AM, including the kick-off to Alan's grand plan to make money off his client

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4

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- After the blast fax, CSM believed Alan was engaged in a classic pump-and-dump scheme
- CSM sued Alan and Godwin Gruber for malpractice, fraud, breach of fiduciary duty, and securities violations in August 2005
- This lawsuit is where things start to go off the rails
 - What happens implicates multiple Texas Rules for Disciplinary Conduct, including 1.06, 1.07, 1.08, 1.14, and 4.01

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5

CRIMEAHOLIC: ADDICTED TO CRIMEAHOL

Rule 1.06. Conflict of Interest:

- (a) A lawyer shall not represent opposing parties to the same litigation.
- (b) In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person: (1) involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of another client of the lawyer or the lawyer's firm; or (2) reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests.
- (c) A lawyer may represent a client in the circumstances described in (b) if: (1) the lawyer reasonably believes the representation of each client will not be materially affected; and (2) each affected or potentially affected client consents to such representation after full disclosure of the existence, nature, implications, and possible adverse consequences of the common representation and the advantages involved, if any.
- (d) A lawyer who has represented multiple parties in a matter shall not thereafter represent any of such parties in a dispute among the parties arising out of the matter, unless prior consent is obtained from all such parties to the dispute.
- (e) If a lawyer has accepted representation in violation of this Rule, or if multiple representation properly accepted becomes improper under this Rule, the lawyer shall promptly withdraw from one or more representations to the extent necessary for any remaining representation not to be in violation of these Rules.
- (f) If a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member or associated with that lawyer's firm may engage in that conduct.

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6

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