

4th Asia Pro Bono Conference and Legal Ethics Forum Session Presentation Plan Template

Name of Session: Ways to overcome legal ethics and professional responsibility challenges in the region

Session Description/Aim:

Case studies from the Asia region. This session will focus on the challenges in the region associated with equipping students and legal professionals with an understanding of their core ethical and professional obligations. It will address questions of regulation, training and the prevention of bribery and corruption and how these issues are approached in the context of both law students and legal practitioners.

Total Session Minutes: (60 min)

Facilitator:

Helena Whalen-Bridge, (National University of Singapore) lawhwb@nus.edu.sg

Co-Presenters:

2. Minh Nguyen, (Gide Loyrette Novel A.A.R.P.I.) thanhminh266@gmail.com

3. Panarairat Srichaiyarat (Centre for ASEAN Studies, Khon Kaen University)
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4. Helena Whalen-Bridge, (National University of Singapore) lawhwb@nus.edu.sg

Session Plan:

Activity Step	Activity Description	Time (Min)	Presenters	Materials Needed
1	Introductions	5		
2	Activity 2 (from chapter of legal ethics manual attached) see page 9	15		
3	Activity 3 (from chapter of legal ethics manual attached) see page 10 – a series of different hypothetical examples. Ask them to discuss in small groups what would you do?	15		

4.	<p>Focus on legal professionals</p> <p>1 x Role play using the participants</p> <p>3 people per group – A plays lawyer, B plays client and C plays observer. See chapter attached for ideas.</p> <p>Lawyer working on pro bono project encounters ethical issue related to bribery/corruption which the lawyer resolves in a certain way. This should then be followed by a discussion in small groups on whether you agree/disagree with lawyer approach and then feed back to larger group.</p>	15		
5.	<p>Other activity – presenters to share positive ways to overcome legal ethics and professional responsibility challenges in the region & wrap up.</p>	10		
Total Time:	60 min			

Ways to overcome legal ethics and professional responsibility challenges in the region

Panel:

Helena WHALEN-BRIDGE, A/P National University of Singapore

Minh NGUYEN, Associate Gide Loyrette Nouel A.A.R.P.I, Vietnam

Vidjia PHUN, Pannasastra University of Cambodia

Ways to overcome legal ethics and professional responsibility challenges in the region

Legal ethics challenges: what are they?

- Bribery and corruption
- Lack of community service orientation
- Others?

Ways to overcome legal ethics and professional responsibility challenges in the region

Ways of meeting Legal ethics challenges?

This session will focus on training, scenarios in particular

- Scenarios used in legal education, law firm training sessions, any training context
- Scenarios explore questions of legal ethics in realistic context
- Should provide well-focused fact pattern requires discussion of particular issues
- Full version: reviews applicable regulation and ethical concerns, imagines and articulates how the issue affects different stakeholders, prompts consideration of different methods of resolution

Today we'll look at two scenarios

Case studies in respect of Vietnam's context



A law graduate from a poor family is trying to get a job in a Law Firm

- Graduate's father is in hospital for treatment, and the graduate is the only person in the family who can make money to support the family

The Law Firm has an important client who is a foreign investor

- The client wants to establish a trading company in Vietnam
- Under Vietnamese law, it would take at least 45 working days to get an investment certificate to establish the foreign-owned trading company, but the real timeline can be up to 6 months or even 1 year
- The client insists that he wants the company to be established within 3 months, otherwise he will find another law firm.

A Partner of the Law Firm calls the graduate and asked the graduate to give an envelop with USD 500 inside to a contact of the Partner in the Department of Planning and Investment so that the foreign-owned trading company can be proceed within 3 months.

What should the graduate do? What are the options?

Applicable Vietnam's regulations

- Code of ethics and professional responsibilities of Lawyers in Vietnam issued on 20 July 2011 (attached to Decision No. 68/QD-HDLSTQ) by the National Lawyer Council.
 - Principle No. 2: *“Lawyers must be independent, honest, respect the objective truth, not for the sake of material and/or spiritual benefits or any other pressures to act against the laws and professional ethics.”*

Applicable Vietnam's regulations (cont.)

- Criminal Code No. 15/1999/QH10 dated 21 December 1999 (as amended on 19 June 2009).
 - Article 279: *“1. Those who abuse their positions and/or power, have accepted or will accept directly or through intermediaries money, property or other material interests in any form valued between two million dong and ten million dong, or under two million dong but in one of the following circumstances in order to perform or not to perform certain jobs for the benefits or at the request of the bribe offerers, shall be sentenced to between two and seven years of imprisonment:*
 - a) Serious consequences are caused;*
 - b) The offenders have already been disciplined for such acts but continue to commit them;*
 - c) The offenders have already been sentenced for one of the crimes stipulated in Section A, this Chapter, not yet been entitled to criminal record remission but continue to commit them.”*

Applicable Vietnam's regulations (cont.)

- Criminal Code No. 15/1999/QH10 dated 21 December 1999 (as amended on 19 June 2009).
 - Article 283: *“1. Those who abuse positions and/or powers, have accepted or will accept directly or through intermediaries money, property or other material interests in any form valued between two million dong and under ten million dong, or under two million dong but causing serious consequences, have already been disciplined for such act but continue to commit it, to use their influence and incite persons with positions and powers to do or not to do something within the sphere of their responsibility or directly related to their work or to do something they are not allowed to do, shall be sentenced to between one and six years of imprisonment.”*

Applicable Vietnam's regulations (cont.)

- Law No. 55/2005/QH11 on Anti-corruption dated 29 November 2005
 - Article 68: “- *Subjects of disciplinary handling, criminal handling*
 1. *Persons who commit corrupt acts defined in Article 3 of this Law.*
 2. *Persons who fail to report on, or denounce corrupt acts which they are aware of.*
 3. *Persons who fail to handle reports on, or denunciations about, corrupt acts.*
 4. *Persons who commit acts of intimidating, taking revenge on, retaliating those who detect, report on, denounce, supply information on, corrupt acts.*
 5. *Heads of agencies, organizations or units who let corrupt acts occur in their respective agencies, organizations or units.*
 6. *Persons who commit acts of violating provisions of this Law or provisions of other relevant law.”*

Applicable Vietnam's regulations (cont.)

- Law No. 55/2005/QH11 on Anti-corruption dated 29 November 2005

- Article 69: “- *Handling of corruption committers*

Persons who commit acts of corruption shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; in cases where they are sentenced for corrupt acts and the judgements or decisions have already taken legal effect, they must be sacked; for National Assembly deputies or People's Council deputies, they shall naturally lose the rights of National Assembly or People's Council deputies. ”

Ways to overcome legal ethics and professional responsibility challenges?





OVERCOMING LEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY CHALLENGES

Vidjia PHUN

September 6, 2015

A Scenario...

- You represent a garment factory business
- The factory has not complied with the law on environmental issues and is polluting the surrounding area
- The factory does not think there is a problem because they have not received a warning from any government office
- What “legal advice” do you give them, what do you do?

Permits and Notification

1

- Council for Development

2

- Ministry of Commerce

3

- Min./Dept. of Labour

4

- Min. of Indus. & Craftwork

5

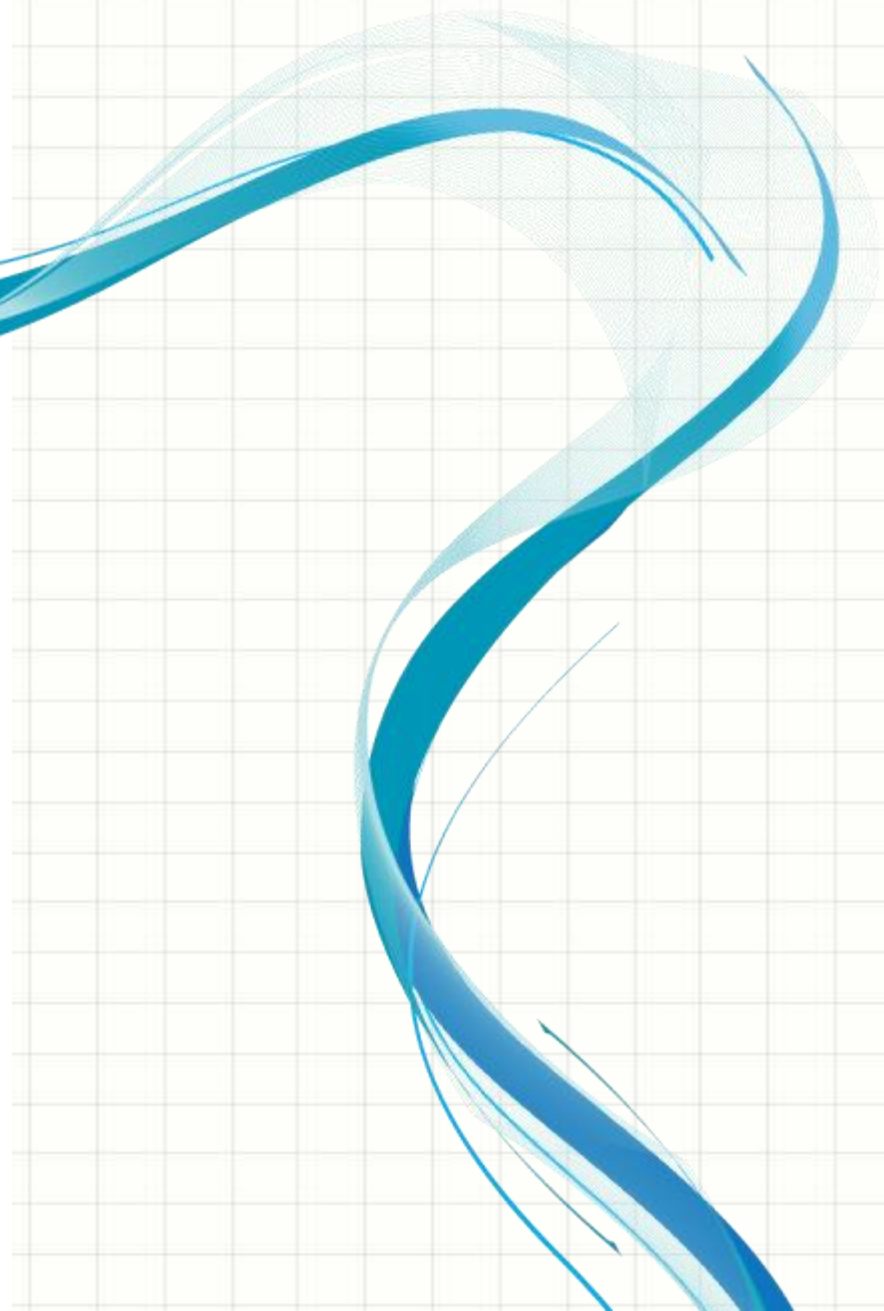
- Min./Dept. Construction

6

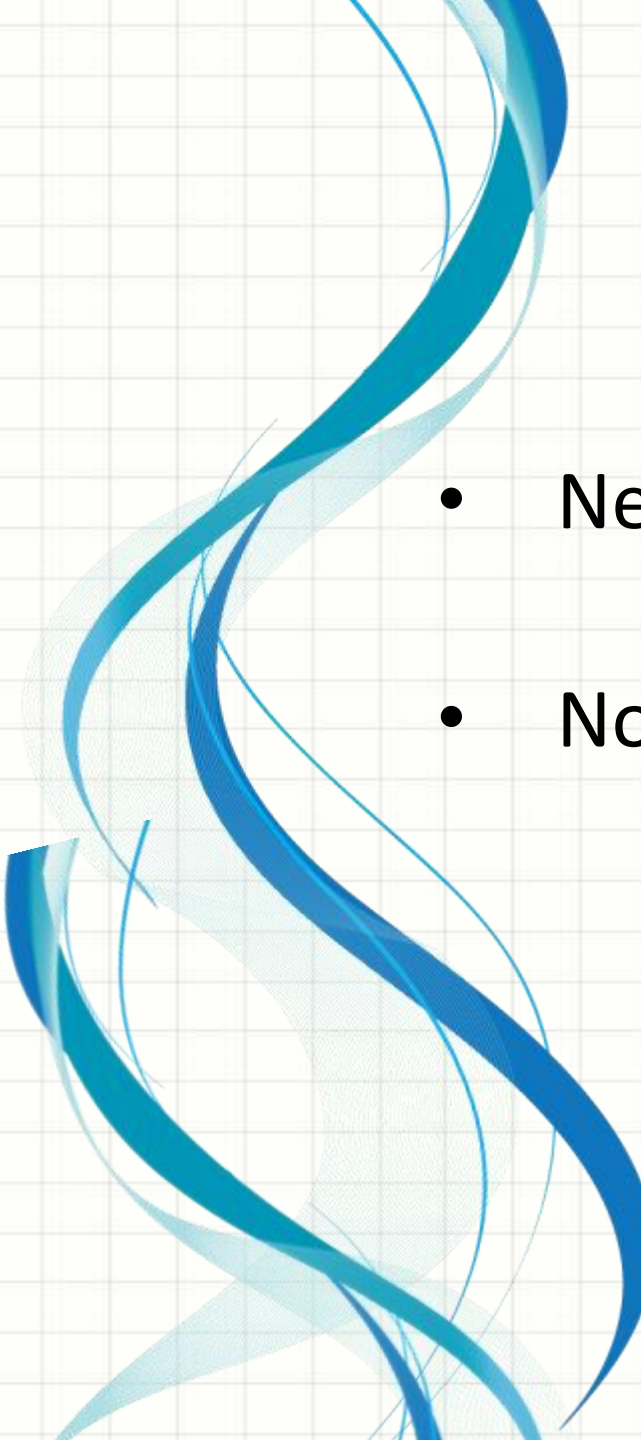
- Min. of Environment

7

- Provincial Hall



**“Informal” but
“necessary fee”
to the “highest
authorities”**

- 
- Neither inspection nor warning
 - Non-legal compliance ~~→~~ sanctions

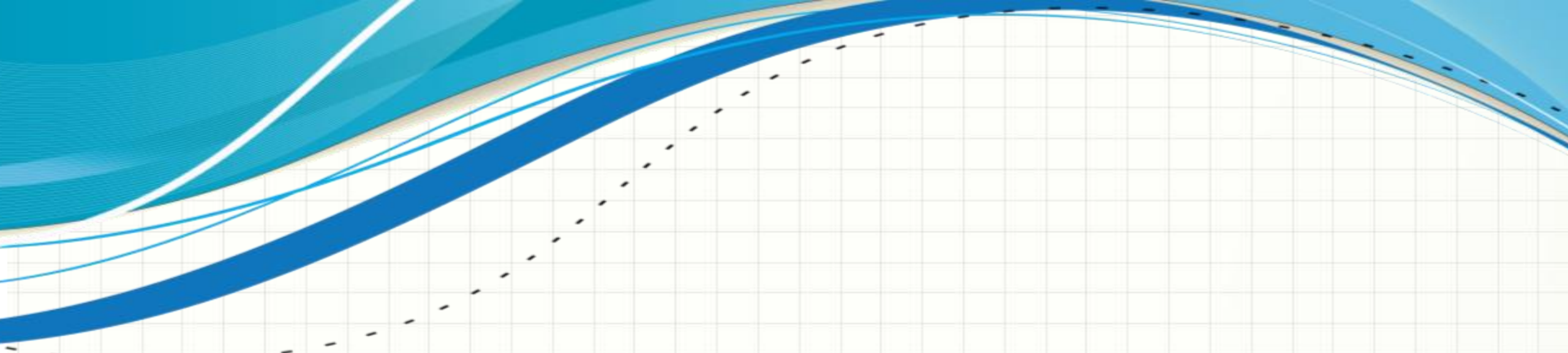


LEGAL ETHICS ISSUE

**PROFESSIONAL RESPONSIBILITY TO REPORT NON-
LEGAL COMPLIANCE VS. PRACTICAL ADVICE THE
CLIENT EXPECTS**



QUESTIONS?



THANK YOU

Ways to overcome legal ethics and professional responsibility challenges in the region

Another Example Scenario: What would you do? Why?

- You are a lawyer working in a law firm with court experience
- You have a family that depends on your income
- You have been offered a pro bono case representing a criminal defendant, an active protestor against government policy who is too poor to afford a lawyer
- Your supervisor at the law firm and your colleagues agree that the defendant should be represented, but they whisper that your career will not progress if you take the case