

ANSWER TO QUESTION NO. 10

This is a straight-forward conflict question addressing imputed conflicts.

If Tim were still a member of Carpet & Wall, P.C., MRPC 1.9 (a) would apply. Under that rule, the firm would not be able to represent interests materially adverse to Manuel, where the former matter is substantially related to the prospective matter. Since Tim was at Carpet & Wall when he assisted Manuel in setting up the business whose operations would now be challenged, no one at Carpet & Wall would be able to represent the non-managing investors against Manuel without Manuel's consent. Tim's representation would impute to the rest of the firm under MRPC 1.10(a).

There is a special rule, however, when lawyers change firms. MRPC 1.10(c) says Carpet & Wall is disqualified only if both the following criteria exist: (1) the prospective representation is substantially related to the former representation, and (2) lawyers remaining in the firm have information protected by MRPC 1.6 (privilege or confidences and secrets) that is material to the matter. The facts indicate that only Tim worked on matters for Manuel while Tim was at Carpet & Wall, and that the Manuel files were transferred when Tim left the firm. As long as Carpet & Wall has no protected information about Manuel (including paper or electronic archive) that is material to the prospective matter, the ethics rules do not prohibit representation of the non-managing investors. It does not matter whether Tim represents Manuel on the prospective dispute.