2018 Sutin, Thayer & Brown Conference

Fact Pattern Three

Ashley Boothby is a non-Indian who graduated from law school in East Delaware many years ago. He disliked the eastern US and saw his future in the wide-open spaces of the Southwest, among the noble indigenous inhabitants of that region. So, within a year or two of obtaining his license to practice law in East Delaware, he found himself in Window Rock, ready to get to work helping the Navajo people with their legal issues.

At the time, the NNBA was a new organization that had no rules concerning the admission of non-Indians. In fact, anyone who could pass the Bar exam was admitted, even if they never graduated from law school. Boothby took the exam, passed with flying colors and was sworn in by the old Navajo Court of Appeals.

Many years passed, during which Boothby never returned to East Delaware, never practiced law in that state and never paid his bar dues. The East Delaware Supreme Court eventually suspended his license for non-payment of dues.

During that time, the new Navajo Supreme Court adopted the current rule that to be eligible for admission to the NNBA, non-Indians must hold an active license to practice law in one of the Four Corners states (Arizona, Utah, Colorado or New Mexico). Boothby never acquires a license from one of these states.

Boothby is in the middle of a difficult divorce case. His client, Jane Smith, hates her soon-to-be ex-husband (John Smith), John hates her back, they both hate their attorneys, and Boothby hates them all. At one of the many, endless depositions in the case, Boothby blows up at both of them, calling them names, attacking them for their endless back-biting, stating that they are both liars and generally losing control and going after them both. He even states that he has a black-belt in Korean karate and threatens to demonstrate his skills on them if they don’t behave. All of this goes into the deposition record.

Eventually, the case draws to a close with a fair division of property, essentially equal child visitation rights and a decree of dissolution. However, John’s mother, Grandma Smith, doesn’t care for the fact that Jane gets the kids on weekends when Grandma Smith thinks they should be with her. She files a complaint against Boothby claiming that he was having an affair with Jane, asserting that he was unfair in how he handled the case and demanding that the Disciplinary Committee order Boothby to pay her son’s attorney fees. She also complains that Boothby was engaged in the unauthorized practice of law.

Identify all ethics violations you can see in this train-wreck and advise the Disciplinary Committee how it should handle each of them.