

YOU MAKE THE CALL

**“Do the Right Thing” Pupilage Group
Owen M. Panner Inn of Court
February 8, 2011**



PROGRAM OVERVIEW

A short history of “You Make the Call”

Tonight’s Program Format

Our Panel of Experts

SEGMENT 1

You are representing a local shoe company, Swoosh. You suspect that a retailer, Knock Off Shop, is selling fake Swoosh shoes both at its store in Ottertown and on its internet site, KnockOffShop.com. You would like to pretend to be a customer so you can both take a look at the store and web site and question Knock Off sales reps at its store and through its customer service blog on-line. The on-line site requires you to register. You plan to use a “nom de web.” This is all OK, right?

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THE “ANSWER”

- ▶ RPC 8.4(b)
- ▶ OSB Formal Ethics Op 2005-173
- ▶ OSB Formal Ethics Op 2005-164

SEGMENT 2

You are representing a local timber broker, Big Tree, that overpaid in purchasing the assets of a competitor, Little Tree, because Little Tree's bookkeeper, Weasel, was overstating its inventory to cover up his massive embezzlement. When the fraud unraveled, Weasel was prosecuted by the George County DA and Big Tree sued Little Tree in Stumptown Local Court under an indemnity provision. Weasel pled out but awaits sentencing. Literally on the eve of trial, you find out that Weasel's trip to the Big House has been postponed because Little Tree has subpoenaed him for trial. You note-up Weasel's deposition. Do you have to invite his criminal defense counsel?

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THE “ANSWER”

- ▶ RPC 4.2
- ▶ *In re Newell*,
348 Or 396, 234 P3d 967 (2010)

SEGMENT 3

You are the General Counsel at a local publically traded high tech company, NightVision. NightVision is trying to sell a key product to a foreign country. It is important to NightVision's financial success to book the sale before the end of the year. The sale looks like a "go" but the foreigners won't sign a formal agreement before year end. NightVision's outside auditors want management—including you—to sign a letter certifying the sale will go through before they will book the revenue. Should you get your signing pen out?

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THE “ANSWER”

- ▶ RPC 8.4(a)(3)
- ▶ *In re Fitzhenry*,
343 Or 86, 162 P3d 260 (2007)