2018 ABA LPL Ed Mendrzycki Essay Contest - Hypothetical

Sponsored by: ABA Standing Committee on Lawyers' Professional Liability and Long & Levit, LLP

As a young partner in the law firm of Brown, Blue & Green, LLP (the 'Firm'), you are proud of its excellent reputation as an entrepreneurial, boutique law firm focused on meeting the intellectual property needs of its diverse clientele. The Firm has carved out a niche with a number of local and regional companies by efficiently using technology to create a unique experience for its clients. In fact, one of its original clients and a primary contributor to the Firm's success is a technology company ("HIP") which has developed and patented a unique "cloud-based" software which allows companies to store, track and manage their respective intellectual property holdings. The Firm helped the original principals of HIP form their company, secure its initial patents, and meet many of its legal needs as HIP quickly grew.

Last week HIP asked you and the Firm to help it expand its business overseas. It would like the Firm to help it secure foreign patents and negotiate licensing contracts for its quickly growing business. HIP's quick success has produced immense growth opportunities for the company, and it is looking to you and the Firm to take on a much larger role in its success. To take on this additional work, the Firm would likely need to add additional attorneys and staff. However, HIP has sweetened the pot by offering the Firm a chance to share in its success by acting as an official "licensor" of its software, a natural fit for the Firm and its stable of IP clientele. As an official licensor of HIP's software, the Firm could license HIP's software to many existing and new Firm clients, improving upon the services it provides to clients and further enhancing its "cutting edge" reputation. Additionally, the licensing fees would add a considerable amount of additional revenue to the Firm.

You've been asked by the Firm's management committee to make a recommendation concerning HIP's request. Please prepare a memorandum to the Firm's management committee setting forth your recommendations to the Firm concerning HIP's offer of a licensing agreement. Please include in your memorandum a discussion of the risks, advantages or disadvantages to the firm posed by the business offer of HIP including the type of business conducted by HIP, any special precautions the firm should take, and potential impact such relationship might have on the firm and its existing or future clients.

The ABA Model Rules of Professional Conduct govern in your jurisdiction.