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USING "THE LETTER" AS A DEVICE TO TEACH
ETHICAL PRINCIPLES IN A LAW CLASS

by

Dr. Sharlene A. McEvoy*

INTRODUCTION

In teaching courses in the Legal Environment of Business or other law courses, one popular assignment is to assign a movie with legal themes as a writing project. Students are provided with a list of movies containing legal issues and each chooses a film about which to write a five to seven page paper due at the end of the semester.

Students often ask what they should be looking for when they view the film. They are instructed to provide a brief discussion of the characters and plot (no more than a paragraph or two) but that the main focus of the assignment is their ability to recognize the legal and ethical dilemmas presented and to relate them to specific topics covered in the class.

To aid the students in their work on this project, I show a movie called The Letter¹ in class. The movie is based on a novel written by Somerset Maugham concerning the murder of one Jeff Hammond at the hands of Leslie Crosby, played by Bette Davis. The latter is married to Robert Crosby played by Herbert Marshall.

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The Plot

The setting of the story is a rubber plantation in Singapore.

The story opens with a quiet moonlit night punctured by three shots fired by Leslie. She reports "There has been an accident and Mr. Hammond is dead."

Her claim is that Hammond tried to make love to her against her will so she shot him.

The focus of the lesson to be learned from this film is the behavior of lawyer Howard Joyce, played by James Stephenson.

Leslie told the following story to her husband and Joyce. She was surprised to see Hammond because her husband Robert was not at home. Leslie said that Hammond told her that she had pretty eyes and that she was the prettiest thing he had ever seen. She claimed Hammond tried to take one of her hands saying, "Don't you know I am terribly in love with you." Leslie suspected Hammond was drunk and said, "If you don't leave immediately I'll call one of the boys to throw you out". According to her account he then grabbed her arms and kissed her. Then he picked her up and tried to carry her away. She then grabbed her husband's revolver, which he left in the house whenever he was away.

Attorney Joyce advised Leslie and Robert that she should go to the Attorney General and tell him her story. Joyce told her that only possible charge was murder and that bail could not be obtained.

Detective Withers was impressed with Leslie's story but admitted that Hammond was likable. Joyce was skeptical. He questioned whether Hammond was the type to make the advances that Leslie had claimed and questioned her about the fact that some of the shots were clearly fired while Hammond was lying on the ground, an issue that he warned her was sure to come up later.

The Ethical Dilemma

Joyce was a principal in the Singapore law firm of Joyce and Spencer Counselors at Law. Joyce had a clerk named Ong, an Asian who notified the lawyer of the existence of a letter written by Leslie to Hammond, on the day of the murder.

While Leslie had stated that she had no contact with Hammond for several weeks, the letter indicated otherwise. Ong suggested that the letter might be of interest to the prosecution. Joyce brought a copy of the letter to the prison where Leslie was incarcerated pending trial.

Joyce reminded Leslie that every time she told her story, she told it exactly the same way. Either she had an excellent memory or she was telling the unvarnished truth, Joyce opined. She said she had a poor memory.

Joyce told her that there was a letter in her handwriting asking Hammond to come to see her as "Robert is going to be away."

Leslie swore she did not write the letter but as the lawyer was about to leave, she admitted it. She claimed that she wrote Hammond asking him to order a gun for her husband's birthday. The contents of the letter however undermined her story:

"Robert will be away for the night. I absolutely must see you. I am desperate and if you don't come, I won't answer for the consequences". Don't drive up."

Joyce said that her told Robert he was sure of an acquittal and that it was the duty of counsel to defend his client, not to convict her, even in his own mind. "I don't want to tell anything but what's needed to save your neck." He warned her what would happen if the jury did not believe that she acted in self-defense.

Leslie suggested that Joyce could get the letter but Joyce told her that he could not do what she asked because a lawyer has a duty to his profession and to himself. He said it would be suborning a witness.

Vowing to do what he could to save her life, Joyce told her that the letter would cost money to obtain.

Joyce and Ong discussed what it would cost to obtain the letter. Ong said \$10,000 because Robert Crosby had \$10,452 in a bank in Singapore. Ong admitted that he was getting \$2000 out of the deal as well as "the great satisfaction of being of service to you (Joyce) and our client."

Joyce informed Robert that Leslie wrote to Hammond asking him to come to her house regarding a gift for his birthday and that Hammond's widow had the letter and Joyce wanted to obtain it. Robert said he would do whatever Joyce thought was right. Joyce stated that he did not think that it was right but that it was expedient. "It might alter things in the minds of the jury if they find out Leslie invited Hammond to the bungalow. Juries can be stupid and it's better not to bother them with more evidence that they can deal with it," he told Robert.

Joyce was clearly uncomfortable with the notion of suppressing evidence. "Maybe it's my own sense of guilt. I have a feeling I'm going to be made to pay the piper for what I'm doing (buying the letter) and I have rely on your discretion," he told Leslie.

After Leslie was released into her lawyer's custody, Joyce and Leslie went to the Chinese quarter to meet Hammond's widow bringing the \$10,000 to pay for the incriminating letter. In a gesture of contempt, the Eurasian woman threw the letter on the floor to make Leslie bend over to retrieve it.

With the letter safely in the hands of the defense, the trial began the next day. Joyce gave the summation in which

he admitted Leslie killed Hammond but said that any self respecting woman in her shoes would have done the same.

Joyce noted that the prosecution produced no evidence to contradict Leslie's story and that there were no complicating motives or premeditation.

He said there was no need to extol her character. He told the jury falsely that, there was no evidence that existed to contradict the truth of Leslie's story.

Joyce was clearly shaken and distressed during and after the summation. When the "not guilty" verdict was announced, he sat mute without a reaction. When Ong congratulated him, he stared at him without acknowledgement.

After the acquittal Joyce faced the unpleasant talk of telling Robert Crosby that he had purchased the letter. Crosby asked if it was a criminal offense. Joyce admitted that it was and that he could be disbarred for having obtained it.

Leslie later admitted to her husband that she was having a long term affair with Hammond and that she shot him out of jealousy and not in self-defense.²

Having viewed the film up to this point, the students need not to be shown the conclusion (although they usually want to see it). The discussion should focus on the following issues:

1. What is the duty of a lawyer to his client?
2. How do the duties to a client conflict with one's duties as an officer of the court?
3. Since Joyce was dubious about the truth of Leslie's story, should he have withdrawn from the case at the beginning?
4. Since the penalty for conviction on a murder charge was hanging, was Joyce justified in doing whatever he had to do "to get his client off."?
5. Does the duty of a lawyer to tell the truth supersede his obligation to his client?

6. Should Joyce have taken a chance, not purchased the letter, allowed it to be given to the prosecutor and tried to explain away Leslie's behavior as a crime of passion?
7. Should Joyce have tried to claim that the language of the letter was ambiguous?
8. Should Joyce have examined Leslie on the witness stand, urged her to tell the truth, and let the jury decide her fate?
9. Joyce was very conflicted as to how to handle the letter. Initially he told Leslie he would not purchase it but after Leslie made an impassioned plea based on how a guilty verdict would affect her husband, he reconsidered. Should Joyce's sympathy for her husband have influenced his decision to purchase the letter?
10. What about the role of Ong as Joyce's law clerk and intermediary in obtaining the letter? Should his role in this incident bar him from becoming a lawyer?
11. Since Hammond, was a partner in an interracial marriage to a Eurasian woman, would an all white male jury have been more sympathetic to Leslie in light of that fact?
Should Joyce have explained that fact in an effort to gain sympathy for his client?
12. During his closing argument to the jury Joyce paused for a long time, provoking a buzz in the courtroom, as he discussed the issues of truth and justice. Had he blurted out the truth at that point, would he have violated his confidential relationship with his client?
13. Did Joyce really know what happened between his client and the victim before the trial ended?
14. As a result of his behavior, should Joyce resign from the bar?

15. Discuss the difference between doing what is right and what is expedient?
16. Did the fact that Joyce was working for no fee (pro bono) on the case as a favor to a friend affect his judgement as a lawyer?

There are many thought provoking legal and ethical issues presented in the letter that students will enjoy discussing. The movie can be used to best advantage by stopping it at various intervals and asking students what they think of Joyce and how he should proceed at the various junctures in the case.

Students can also be asked to play the role of a Grievance Committee to which a complaint has been made about Joyce's ethical conduct. Given a range of punishment from reprimand to disbarment what sanctions should the panel impose? Another point of discussion is the fact that Singapore was a British colony with a common law system. Students should note the courtroom scenes and their similarity to English proceedings with the court principals wearing robes and wigs.

CONCLUSION

Business and individuals face numerous ethical dilemmas every day. "The Letter" poses many issues of behavior that conflict with the conscience that can be a springboard for class discussion and a catalyst for the question "What would I do if I were confronted with such a dilemma"? Expediency? Rectitude? Or a middle road?

ENDNOTES

¹ Produced by Hal B. Wallis for Warner Bros and directed by William Wyler, "The Letter" was released in 1940. (BW Running time 97 minutes Available VHS, DVD) The Letter was nominated for seven Academy Awards including Best Picture, Best Actress, Best Director and Best Supporting Actor for James Stephenson as the conflicted defense attorney.

² Since "The Letter" was made in Hollywood after the Hayes Code was in effect, the ending of the book in which the murderer resumed her life with her husband was unacceptable. In the movie version Leslie Crosby received her punishment.