

UPSCALE ACCUSATIONS COUNSELING EXERCISE

Client Information and Instructions

Your lawyer's secretary called you to set up an appointment to discuss the employment discrimination case initiated by Pat against Upscale Exhibits. You feel a sort of relief to schedule the appointment because, based on your initial interview with your attorney, you feel optimistic that you will either settle for the initial severance amount of \$15,000, or better, win with some special motion that your attorney mentioned in the interview. Your attorney told you that he/she has settled these types of cases for no more than three-months salary. In either case, you would be done with this nightmare in, at most, six-months time. This is good news. The business is improving and you will need to focus on its continued growth and innovation.

You make a mental note to tell your attorney about the new 26 year old sales person that you hired four months ago. You do not think that this will be an issue but you feel really paranoid to hire anyone under forty since this case began. The series of questioning that you endured in depositions, and subsequent phone calls from your attorney asking about different facts that Pat raised, have made you afraid of your own shadow. Specifically, most recently your attorney asked you about two expenditures that you and your partner made around the time of the downturn. One was the purchase of an \$80,000 computer and the second was the increase in salaries for most employees.

The computer system and custom software are state-of-the art technology that the company desperately needed to be competitive. Upscale Exhibits needed to appeal to a wider range of high-end customers with more sophisticated demands. The computer and software allowed Upscale Exhibits to create professional marketing materials and advanced display graphics in-house. You told your attorney that Pat did not know that you and your partner made personal loans to the company to cover it. The increases in salary were very minor, totaling \$10,000. However the company still needed savings from Pat's termination (\$50,000 salary and \$15,000 in benefits). The minor raises were intended to keep everyone motivated in the face of extra work.

You also were asked to clarify how Pat's job duties were distributed. Most of the office management duties went to 32 year old Jen because she was adapt at the computer, and understood the business including its vendor and billing relationships. Some of Pat's former duties were delegated to Pat's 40 year old former assistant. It is true that the accounts that Pat handled were handed over to younger folks as well but it was not pre-meditated. In fact, the accounts were initially handled by whoever picked up the client call and were eventually assigned to the best sales people because the accounts needed extra care. The two best sales persons were 39 and 40 years old at the time.

You cannot wait to find out when, exactly, this case will be over and the cloud that has been imposing on you and the business will be lifted.