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MEMORANDUM

WHETHER THE RELATIONSHIP BETWEEN I.B.I MENTOR AND MENTEE GIVES RISE TO FIDUCIARY OBLIGATIONS OWED BY THE MENTOR TO THE MENTEE

Togs for Tots, Inc.v. CCM.

Rule: Confidential relationship may exist where one person relies on another because of a history of trust, older age, family connection, and/or superior training and knowledge, and where the person relied upon assumes a position of dominance in the relationship. Reliance and dominance are key factors in such a relationship. Resulting inequality could impose duties on the advisor to refrain from self-dealing or from exacting inequitable terms.

In the case of I.B.I., the mentor/mentee relationship is one where the mentor has superior training and knowledge and where the mentee would rely on the dominance of the mentor. In the proposed business agreement, there are no references of self-dealing by not accepting a gift from or charging the Mentee. Therefore, the agreement is in accordance with the above court ruling.

WHETHER THE CONTRACT BETWEEN I.B.I AND MENTOR CREATES CONTRACTUAL RIGHTS THAT AN I.B.I MENTEE CAN ASSERT AGAINST THE MENTOR.

Shaw v. Benedeti Enterprises (2007)

Rule: The court ruled that the parties must have entered into a bargained-for exchange where each party would receive a benefit.

In the agreement, there does not seem to be a provision stating the duties and obligations of the mentee. There is no bargained-for-exchange and therefore no contractual liability between I.B.I. and Mentee.

Norton v. Kramer

Rule: The intended third-party beneficiaries of the contract may sue the contracting parties for the benefits that were not conferred on them. A party is an intended third party beneficiary if it can be proven that the intent of the parties to the contract is to confer a benefit to the third party.

Here, the agreement contract is between the Mentor and I.B.I. for the benefit of the Mentee. The Mentee is therefore a third-party beneficiary and will be able to sue I.B.I. and the Mentor.

Question #1 Final Word Count = 336

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