Admission

Issue:

Whether [Insert lawyer Name] meets the admission criteria and qualifies as a "fit and proper person" to be admitted to the legal profession in Australia.

Law:

Under LPUL s17, admission requires a recognised law degree, accredited PLT, and passing the fit and proper person test. Candidates must be 18+ (s16 LPUL) and have completed three years of law study and PLT within five years (r5–r6 LPUAR).

r10 LPUAR sets fit and proper criteria, including character and disclosure statements, police and conduct reports, certificates of good standing, reputation, bankruptcy or criminal history, disciplinary actions, and English proficiency.

Application:

In this case, [Insert Name] must apply for a compliance certificate under s19 LPUL, confirming a recognised law degree and completion of accredited PLT. A fit and proper person assessment will follow, considering any criminal or disciplinary history under r10 LPUAR.

[Insert Name] must disclose all past misconduct or offences.
In this case, there are [no areas of concern / possible concerns include A, B, and/or C].

In this case there are <select one of following>

- no areas of concern.

- possible areas of concern include <select A and/or B and/or C>

A. **Previous misconduct** as [Insert Name] has been involved in instances of <SELECT academic dishonesty during their studies eg plagiarism, cheating in exams OR professional misconduct in previous employment eg breach workplace policy>.
B **Criminal history** as [Insert Name] has prior criminal offences <SELECT theft, fraud, or other serious charges eg assault> that must be disclosed.
C **Bankruptcy History** as [Insert Name] has <SELECT Past bankruptcies or insolvency issues eg unpaid taxes > that must be disclosed.

Cases like *Re Davis* stress **full disclosure,** and *Thomas* shows past conduct affects admission.

[Insert Name] must disclose any misconduct, conviction, or bankruptcy.

Non-disclosure, even from [insert time], may indicate lack of candour and bar admission.

<ONLY If a criminal offence>
Regarding the **offence of [insert conduct/offence]**, if [Insert Name] shows **genuine remorse** and has **not reoffended**, combined with completing a law degree, this may suggest no ongoing character flaw, as in **KMB v LPAB**.

<if more than one offence and more recent offence>

However, the <insert second /latest offence> having occurred more recently may make proving rehabilitation harder. [Insert Name] could still show reform and insight, as seen in **R v Stokes**, where a solicitor was readmitted after a serious offence.

Conclusion:

The assessment of [Insert Name]'s academic qualifications, practical legal training, and character will determine their fitness to practice law.

<Select>

Option 1: Admitted

If [Insert Name] demonstrates sufficient qualifications and rehabilitation from past conduct, they may be recommended for admission, potentially with a period of supervised practice

Option 2: Not Admitted

If concerns about [Insert Name]'s past conduct are significant and lack evidence of rehabilitation, they may not be admitted, undermining their credibility and integrity in the admission process.

<Add this for both options Advice for Applicants>
For those worried about admission, it's crucial to disclose any matters that may not favour them, as outlined in r17 of the LPUL. Full disclosure and honesty can serve as mitigating factors, while failure to disclose can be viewed severely and act as an aggravating factor in the assessment.

<NOTE: IF criminal offence once admitted into law

– assess as unsatisfactory profession conduct or professional misconduct REFER TO **FINAL REPSONSE #11** >

Duty to Represent: Retainer

ISSUE

[Insert Client Name] seeks advice regarding [Insert Lawyer Name]. The client believes a retainer exists, but it has not been formalised, raising issues about the lawyer's duty to act and potential misconduct.

Law

Lawyers must confirm authority to act and avoid conflicts. Oral retainers are valid but less reliable than written ones (Griffiths v Evans). Implied retainers require clear evidence of agreement. Lawyers must act in the client's best interests (R v Tighe and Maher), disclose costs, and act efficiently. Under the Conduct Rules, they must complete services unless discharged and return client documents once any lien is resolved.

Application

In this case <select>

<table>
<tr><td>YES = Retainer</td><td>Assessing the facts, there is a retainer in place. In accordance with r13 (Conduct Rules) <insert lawyers name> must complete services unless <insert client name> agrees otherwise or discharges the practice.</td></tr>
<tr><td>NO</td><td>In this case, <client> believes a retainer exists based on communications with <lawyer>, but without a written agreement, the retainer could be disputed (Griffiths v Evans). However, 'a professional engagement may be implied if the relevant relationship is established' (McGeoch). If an implied retainer is found, <lawyer> must show evidence like meeting notes or correspondence.
<select>
<table>
<tr><td><IF NEW CLIENT></td><td>In this case <insert client name> is a new client and has had no prior dealings with <insert lawyer name> thus a retainer cannot be implied in which therefore it does not exist. <eg free consultation, initial email request></td></tr>
<tr><td><IF THEY WERE A PREVIOUS CLIENT></td><td>In this case, <client > had previous dealings with <lawyer> so the retainer is implied and therefore exists. <eg prior engagement/paid fees, past advice></td></tr>
</table>
</td></tr>
</table>

Conclusion

YES = Retainer	In this case, there was a valid retainer in place so <lawyer> must complete

	services unless the client agrees otherwise or discharges the practice.
No retainer	In this case, there is no retainer. For <insert lawyer name> it is crucial to formalise the retainer with <insert client name> promptly to clarify the scope of representation and responsibilities. By documenting the agreement, <insert lawyer name> can avoid potential disputes over the existence of the retainer. If conflicts arise due to a failure to establish clear terms, <insert lawyer name> may face adverse legal consequences.

Duty to Represent: cost disclosure

Issue
What are the obligations regarding costs disclosure and agreements between [Client Name] and [Lawyer Name] under the LPUL?

Law
Once retained, lawyers must give clear, fair, and reasonable costs disclosure (s172–174 LPUL). Delays must be avoided, and clients can negotiate fees or seek regulatory review. Non-disclosure may void the agreement (s178).

Application

[Client Name] believes an agreement exists with [Lawyer Name], as seen through <lawyer gave advice, lawyer followed instructions> but if costs were not disclosed, [Lawyer Name] may breach s172.

Without an estimate or clarity on fees, the client may dispute billing, and a non-disclosure could void the agreement, limiting cost recovery. Consider whether fees were justified by complexity or if costs were fair and reasonable.

Conclusion
[Lawyer Name] must disclose costs clearly and ensure the client understands and can negotiate fees. Failure to do so risks void agreements, disciplinary action, and loss of cost recovery. Clear communication and documentation protect both parties.

Duty to court (paramount duty)

ADVICE MUST NOT CONTRAVENE FUNDAMENTAL DUTIES IN RULES 3-5:

Issue

The central issue is whether [Insert lawyer Name] can uphold their **paramount duty** to the court while also fulfilling their **responsibilities to the client**, particularly when <INSERT faced with a request to engage in dishonest conduct>.

Law

Solicitors' paramount duty is to the court, overriding client interests (r3.1; Giannarelli v Wraith; Rondel v Worsley).

They must **advise clients** (r7.1) and **follow instructions** (r8.1) without **misleading the court**, acting with **integrity** and only on matters with a **reasonable prospect of success** (Application Act, Sch 2(1)(4)).

Application

In this case, where <insert solicitor name> **encounters a conflict between client instructions and their duty to the court**, several potential outcomes can arise.

<Select relevant scenario>

Client Insists on **Dishonest Conduct (submitting false evidence)**	In this case the client <insert name> is requesting the solicitor <insert name> **submit evidence they know to be false,** however the solicitor must **prioritise their paramount duty to the court.** In this situation: <select depends on **IF they are already committed to representing** the client> **Not yet: Option A:** The solicitor<insert name> should **withdraw from representation** to maintain their professional integrity and comply with ethical obligations. Alternatively, the solicitor<insert name> might attempt to persuade <insert client name> to reconsider their approach, explaining the legal consequences of dishonesty. **Have represented/ or continues to: Option B:** In this case <insert lawyer name> continues to represent <insert client name> despite knowing that they are submitting false evidence <what is false evidence>. This undermines <insert lawyers name> **paramount duty to the court** and may submit themselves to **perjury** (Crimes Act s327). It also breaches r4 of the Conduct Rules and contravenes <insert lawyers name> the **fit and proper person requirements as they are misleading the court.**
False testimony by client	If the solicitor discovers that the client intends to **provide false testimony**, the obligations are clear. In this situation: <select depends on **IF they have already representing** the client> **Not yet: Option A:** The solicitor <insert name> must advise the client <insert name> of the

	necessity to correct any misleading statements, informing them of the serious legal consequences of not doing so. If <insert client name> refuses to correct their testimony, <insert lawyer name> may need to disclose this intention to the court, adhering to r19.1 and 19.2 regarding honesty and the obligation to correct misleading statements. **Have represented/ or continues to: Option B** In this case <insert lawyer name> continues to represent <insert client name> despite knowing that they are submitting a false testimony <what is false testimony>. This undermines <insert lawyers name> **paramount duty to the court** and may submit themselves to **perjury** (Crimes Act s327). It also breaches r4 of the Conduct Rules and contravenes <insert lawyers name> the **fit and proper person requirements as they are misleading the court.**
Client Admits **Guilt** but Wants to Plead **Not Guilty**	If the client **confesses** to committing the offence but wishes to **plead not guilty**, the solicitor must navigate this carefully. In this situation: <select depends on **IF they have already representing** the client> **Not yet: Option A**: The solicitor <insert name> should clearly explain the **implications** of pleading not guilty, ensuring the client understands they cannot present an inconsistent defence. The solicitor may recommend a **plea deal** that acknowledges the client's guilt while aiming for a lesser sentence, acting in the client's best interests. **Have represented/ or continues to: Option B**: In this case <insert lawyer name> continues to represent <insert client name> despite knowing that they are guilty <insert offence and how admitted guilty>. This undermines <insert lawyers name> **paramount duty to the court** and may submit themselves to **perjury** (Crimes Act s327). It also breaches r4 of the Conduct Rules and contravenes <insert lawyers name> the **fit and proper person requirements as they are misleading the court.**

Conclusion

[Insert Name] must prioritise the court over client wishes. Full transparency and ethical compliance are essential. Breach may trigger disciplinary action under ss296–297 LPUL and harm their reputation.

As <insert facts – based on application above and summarise findings>

<select>

Did they represent a client that was dishonest? YES	As they failed their paramount duty to the court and likely subject to disciplinary action or struck from the role.

If they didn't represent dishonest client	They upheld their paramount duty to the court and they avoided disciplinary action.