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What to Do When You Suspect Your Client Is Lying

Michael J. Rossi

Lawyers are trained to handle bad facts. We learn from our earliest days in the trenches that unfavorable evidence does not end a case—it shapes strategy. What makes practice far more difficult is not bad facts but inaccurate facts. When clients shade the truth, omit key details, or lie outright, the lawyer’s role shifts from advocate to gatekeeper. The challenge then becomes not simply how to win or resolve a case, but how to do so without compromising our professional reputations or risking disciplinary consequences.

For solo and small firm practitioners, whose client relationships are often closer and whose resources are more limited than those of big firm lawyers, navigating suspected dishonesty requires a careful balance of skepticism, judgment, and ethical discipline. This article examines how to respond effectively when you suspect a client is lying, while protecting your license, maintaining appropriate boundaries, and recognizing when withdrawal may become necessary.

The Governing Framework: Key Rules

When a client lies, lawyers face a complex intersection of ethical duties that prioritize candor over confidentiality. The primary, directly applicable American Bar Association Model Rules of Professional Conduct include Rule 1.2(d) (Scope of Representation: Prohibition on Assisting Crime or Fraud), Rule 1.6 (Confidentiality of Information), Rule 3.3 (Candor Toward the Tribunal), and Rule 4.1 (Truthfulness in Statements to Others). Together, these rules define the boundary between permissible advocacy and impermissible assistance in wrongdoing.

Rule 1.2(d): Prohibition on Assisting Crime or Fraud

Rule 1.2(d) provides that a lawyer “shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent.” However, the rule allows a lawyer to discuss the legal consequences of a proposed course of conduct and to assist a client in making a good-faith effort to determine the validity or scope of the law.

This distinction is critical. A lawyer may advise, analyze, and even warn—but may not help execute a known fraud. If a client’s lie is part of a broader scheme (for example, falsifying documents, misleading a court, or deceiving a counterparty), the lawyer must not facilitate it.

When suspicion arises, the lawyer’s first step is often to ask more questions. When knowledge arises, the lawyer must stop assisting.

Rule 1.6(b)(2): Confidentiality of Information

While lawyers may generally not reveal information relating to the representation of a client, Rule 1.6(b) provides several exceptions, one of which is “to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer’s services.”

Rule 3.3: Candor Toward the Tribunal

Known as the “lying in court” rule, Rule 3.3 imposes heightened duties in proceedings before a tribunal. A lawyer may not knowingly make a false statement of fact or law to a tribunal, fail to correct a false statement previously made, or offer evidence the lawyer knows to be false.

If a lawyer comes to know their client, or a witness called by the lawyer, has offered material evidence that is false, the lawyer must take “reasonable remedial measures,” which may include disclosure to the tribunal if necessary. This rule overrides confidentiality obligations under Rule 1.6. In other words, protecting client confidences does not permit a lawyer to allow a court to be misled. The practical implications are significant. If a client insists on testifying falsely, or if the lawyer later learns that testimony or evidence is false, the lawyer cannot simply remain silent. The duty of candor requires action.

Also, while a lawyer’s duty of loyalty requires the lawyer to act in the client’s best interest, Rule 3.3 provides that a lawyer must refuse to offer evidence that the lawyer knows is false.

Rule 4.1: Truthfulness in Statements to Others

Rule 4.1 prohibits a lawyer from knowingly making false statements of material fact or law to a third person. A misrepresentation is not limited to statements the lawyer originates; it can also occur when the lawyer adopts or affirms a statement made by someone else—most often the client—that the lawyer knows is false. Put otherwise, a lawyer cannot serve as a conduit for a client’s lie or misrepresentation. If the surrounding circumstances raise serious questions about the accuracy of a client’s statement, the lawyer has a duty to probe further before repeating it. Deliberately ignoring obvious warning signs—what is sometimes described as “conscious avoidance”—can be treated as the functional equivalent of knowledge and therefore will not shield the lawyer from ethical responsibility.

Rule 4.1 also addresses omissions. When a lawyer’s failure to speak would help a client carry out a crime or fraud, including one that takes the form of a lie or misrepresentation, the lawyer may need to disclose a material fact to avoid assisting that wrongdoing, unless disclosure is prohibited by the confidentiality rule. This is particularly relevant in transactional practice, negotiations, and informal communications—contexts where there is no tribunal but where misrepresentations can still have serious legal consequences. If necessary to avoid assisting a crime or fraud, the lawyer may need to withdraw and, in some cases, disaffirm documents or statements previously made.

When You Suspect a Client Is Lying

Clients may omit facts or describe events imprecisely out of embarrassment, fear, or misunderstanding. The lawyer's challenge at this stage is to test the narrative without alienating the client.

Often, the problem is not that the client is lying outright, but that the lawyer has not elicited the full story. Open-ended questions, followed by specific probing, can reveal inconsistencies or gaps. For example, instead of asking, "Did you tell the other party about the defect?" consider: "Walk me through exactly what you said, when, and how."

It is also beneficial to explain to clients at the outset of representation why accuracy matters. Clients may not appreciate the legal significance of omissions or inaccuracies. It is essential to explain that misleading information can harm their case, limit available strategies, and expose both the client and the lawyer to risk. Framing this as a shared problem—rather than an accusation—can encourage candor.

Corroboration is also key. Lawyers should not take a client's word on key factual issues. A lawyer's duty of competence under Rule 1.1 includes a duty to inquire into and analyze the factual and legal elements of a problem. Documents, third-party records, and timelines can help verify or challenge a client's account. This is not to say that lawyers are required to disbelieve their clients. As the saying goes: trust, but verify. Discrepancies should be addressed directly but professionally. Clients are more likely to be truthful when they feel heard and not judged. Ultimately, suspicion is not proof. Lawyers should remain open to explanations, including misunderstandings or incomplete recollections. However, repeated inconsistencies should not be ignored.

Not all concerns about client truthfulness are equal. Ethical duties often hinge on whether a lawyer *knows* a statement is false, as opposed to merely suspecting it. Suspicion, even strong suspicion, does not necessarily trigger the same mandatory duties as knowledge. But it does impose a professional obligation to investigate, probe, and avoid facilitating potential wrongdoing.

When Suspicion Becomes Knowledge

At some point, the evidence may become clear enough that the lawyer knows the client is lying. This may arise from contradictory documents, admissions by the client, reliable third-party information, or internal inconsistencies that cannot be reconciled.

At this stage, the lawyer's obligations shift significantly.

The first step is to address the issue directly in a candid but measured conversation. The lawyer should identify the inconsistency or falsehood, explain the lawyer's ethical constraints, and make clear that the lawyer cannot present or rely on false information. Clients sometimes test boundaries. A firm, clear response can reset expectations.

Lawyers should also counsel against the misconduct in no uncertain terms. As noted above, Rule 1.2(d) permits—and indeed expects—the lawyer to advise the client against engaging in fraudulent conduct. This includes explaining potential legal consequences, such as sanctions, adverse rulings, or criminal exposure.

If the client persists, the lawyer must refuse to assist. This may involve declining to file a document, present testimony, or make a statement that the lawyer knows to be false. In litigation, this can create acute challenges, particularly close to hearings or trial. But the rule is straightforward: The lawyer cannot knowingly present false evidence.

Special Considerations in Litigation

A lawyer's duty of candor under Rule 3.3 to the tribunal creates specific obligations in court proceedings. If a lawyer knows that a client intends to testify falsely, the lawyer must attempt to dissuade the client from doing so and explain the consequences. If the client persists, the lawyer must refuse to offer false evidence, even if doing so disrupts the representation. In many cases, that refusal will make continued representation untenable and will require withdrawal, subject to the court's rules. The duty of candor does not permit a lawyer to facilitate perjury, regardless of the practical

difficulties that may result. The lawyer's duty is to represent the client within the bounds of the law—not to achieve the client's objectives at any cost.

Some jurisdictions permit a “narrative approach,” allowing the client to testify without the lawyer eliciting the false testimony through questioning, but this usually arises only in the criminal context. Lawyers must be familiar with the governing law in their jurisdiction and should consider consulting ethics counsel when these issues arise.

If a lawyer comes to learn that false evidence has already been presented, the lawyer must take reasonable remedial measures. This typically includes urging the client to correct or withdraw the false statement. If the client refuses, the lawyer must consider disclosure to the tribunal. This is one of the rare circumstances where confidentiality yields to candor, even if it harms the client.

Boundaries in Non-Litigation Contexts

In transactional work, negotiations, and advisory roles, the lines can feel less rigid—but the ethical obligations are no less real. Lawyers are not required to volunteer all unfavorable facts to opposing parties. However, they may not make false statements or assist a client in doing so.

If a client proposes to misrepresent a material fact—for example, the condition of an asset, the existence of liabilities, or the status of regulatory compliance—the lawyer must refuse to participate. Depending on the circumstances, the lawyer may also need to withdraw and disaffirm prior statements.

Recognizing When Withdrawal May Be Necessary

Although this article does not focus on the mechanics of terminating representation, it is important to recognize when continued representation becomes untenable. Withdrawal may be required or permitted when the client insists on using the lawyer's services to commit fraud, the representation would result in violation of the rules, or the lawyer's ability to represent the client effectively is compromised.

Timing is critical. Early recognition of ethical conflicts can make withdrawal less disruptive. Late-stage withdrawal, particularly in litigation, may require court approval and can raise additional complications.

As a practical matter, most lawyers do not want to represent a client who lies. The attorney-client relationship works best when it is grounded in trust; without it, even routine decisions become complicated. In those situations, lawyers are best served by prioritizing their professional reputation and ethical obligations over loyalty to the client or financial considerations.

Preventing the Problem at the Intake Stage: Choosing Clients Carefully

Of course, the most effective way to deal with a client who may be inclined to misrepresent facts is to avoid the engagement in the first place. Thoughtful, disciplined intake is an essential risk-management tool, not a formality. Lawyers should pay close attention to early warning signs, including unexplained gaps or frequent changes in the client's story, reluctance to provide supporting documentation, or an expressed willingness to “do whatever it takes” to achieve a result regardless of the rules. Taking the time to test assumptions at the outset can prevent far more difficult ethical problems later, when withdrawal may be disruptive, candor obligations may be triggered, and the lawyer's own exposure may already be in play.

Protecting Your License

The consequences of mishandling client dishonesty can be severe, including disciplinary action, malpractice exposure, reputational harm, and even criminal liability in extreme cases.

When issues of truthfulness arise, it is prudent to document key communications. Confirming advice in writing—particularly refusals to engage in questionable conduct—can provide important protection.

Consulting ethics counsel or a bar ethics hotline may also be a practical step in navigating complex situations. While the Model Rules provide a framework, local variations and interpretations matter. Ethics opinions and case law may clarify or complicate obligations.

The Truth Matters

Handling bad facts is part of the job. Handling false facts is something else entirely. When clients are not truthful, the lawyer must navigate a narrow path—balancing loyalty with independence, advocacy with integrity. The Model Rules provide a framework, but they do not eliminate the need for judgment. Lawyers must ask hard questions, set clear boundaries, and be prepared to act when those boundaries are crossed. Ultimately, the lawyer's license to practice—and professional reputation—depend on maintaining that balance. The client's story matters, but so does the truth.

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