

PART II: ESSAY QUESTIONS
QUESTION 1

Tony starts "THE CHURCH OF TONY." It consists of a large dance floor with naked women pole dancing while, overhead, an enormous video screen continuously displays Tony sitting in a lounge chair, smoking a cigar, and alternately reading from the Bible, the Koran and various Buddhist and Hindu sacred texts. Church members are charged a "donation" to enter.

When Tony attempts to advertise in the local newspapers, they refuse his ads because of an ordinance that prohibits advertisements for "establishments of lewd conduct."

Because of lobbying efforts by several local fundamentalist church congregations, the city authorities begin proceedings to shut Tony's church down under another ordinance prohibiting "adult entertainment within 500 feet of a Church." The city claims the "church" in this instance is "THE CHURCH OF TONY."

Tony and his dancers (clothed) picket Sunday services at the most prominent of the local churches that lobbied. They carry signs protesting the city's legal actions. Outraged members of the fundamentalist church assemble and demand that he and the dancers leave. Tony's response, through a bullhorn, is to continuously shout at them, "In the holy name of Tony, I command you to go f... yourselves!"

Tony and the dancers are arrested and charged with (A). Protesting in front of a church without a permit. (B). Inciting a riot. (C). Disturbing the peace through use of lewd language. Police learn that one of the dancers, whom Tony hired because she had fake ID showing she is 23, is actually 17. She tells the police Tony videotaped her naked pole dancing and sold copies. Tony is further charged with distribution of obscene materials and child pornography.

Discuss all constitutional issues raised by these facts. State how these issues should be resolved and why.

END OF ESSAY QUESTION 1

ESSAY QUESTION 2

Because of the economic downturn that has produced a large fiscal operating deficit, a city adopts the following measures on the recommendation of the city's budget analyst based on a commissioned study done by a private, independent economic research company:

1. Since the number of city employees must be reduced and since the study shows that disabled city employees cause extra costs, all city positions now occupied by disabled employees are abolished.
2. Because of the costs of policing, all parks that have been used for public gatherings of any kind shall be closed.
3. Affirmative action programs which are in place for recruitment and hiring on a racial, gender or ethnic basis for the purpose of redressing past discrimination are abolished.

Jack, a local labor union leader representing city workers, calls a news conference and charges, falsely, that Sam, the president of the research company that did the study, and several employees of the company whom Jack names, actively helped Bernie Madoff swindle elderly holocaust victims of their life savings. Arnold, editor of the local newspaper, who knows Jack to be a notorious liar and who also has an old personal grudge against Sam, publishes the charges.

Sam sues, and when Jack's deposition is taken, Jack says that Sam's connection to Madoff was common knowledge among his union members. Sam's lawyer subpoenas the membership list of the union.

Discuss all constitutional issues raised by these facts. State how these issues should be resolved and why.

END OF ESSAY QUESTION 2

END OF EXAM