1. This problem is resonant of some trading fraud cases in Chapters 2 and 3, particularly United States v. Finnerty (and to some extent United States v. Dial), and also of insider trading doctrine in Chapter 4. Because Carpenter v. United States shows that the DOJ has over time approached this kind of case on both a "regular" fraud theory and an insider trading theory, it is best to address both. As a "regular" securities or mail/wire fraud, the question is whether (ala the issues in Finnerty and Dial) Homer has defrauded his own clients by facilitating someone else trading ahead of those clients using confidential information regarding client trading orders. On an insider trading theory of securities fraud, the question is whether Homer, at any point in the fact pattern, becomes liable as a tipper and whether Mo is liable as a tippee, on either a classical or misappropriation analysis. There is not likely to be any firm liability here, as nothing Homer does is intended to benefit his employer. There is ample opportunity here to discuss issues of duty and mens rea.