

STATE OF MINNESOTA
IN SUPREME COURT

AMENDMENTS TO CODE OF PROFESSIONAL RESPONSIBILITY

WHEREAS the Lawyers Professional Responsibility Board has recommended and the Minnesota State Bar Association has endorsed certain amendments to the Minnesota Code of Professional Responsibility; and

WHEREAS the Court held a hearing on the recommended amendments on September 10, 1976, and is fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, effective immediately, the Minnesota Code of Professional Responsibility is amended by adopting therein:

(a) The amendments to DR 2-105(A)(1) and DR 2-108(B) adopted on February 24, 1970, by the American Bar Association;

(b) The amendments to DR 5-105(A), DR 5-105(B), DR 5-105(D), DR 7-102(B)(4), DR 7-110(A), DR 7-110(B)(4), DR 8-103, EC 2-18 as modified by the Minnesota Supreme Court, and EC 7-34 adopted effective March 1, 1974, by the American Bar Association; and

(c) The following as DR 9-103:

"DR 9-103 REQUIRED BOOKS AND RECORDS; REQUIRED CERTIFICATE

"(A) Every lawyer engaged in private practice of law shall maintain or cause to be maintained on a current basis books and records sufficient to demonstrate income derived from, and expenses related to, his private practice of law, and to establish compliance with DR 9-102. The books and records shall be preserved for at least six years following the end of the taxable year to which they relate or, as to books and records relating to funds or property of clients, for at least six years after completion of the employment to which they relate.

"(B) Every lawyer subject to DR 9-103(A) shall certify, in connection with the annual renewal of his registration and in such form as the Clerk of the Supreme Court may prescribe that he or his law firm maintains books and records as required by DR 9-103(A)."

Dated October 13th 1976.

BY THE COURT


Robert J. Sheran Chief Justice

The following shows, with underlining to indicate additions and crossouts to indicate deletions, the ABA amendments which are adopted in the Minnesota Code of Professional Responsibility:

EC 2-18 The determination of the reasonableness of a fee requires consideration of all relevant circumstances,⁴⁵ including those stated in the Disciplinary Rules. The fees of a lawyer will vary according to many factors, including the time required, his experience, ability, and reputation, the nature of the employment, the responsibility involved, and the results obtained. ~~Suggested fee schedules and economic reports of state and local bar associations provide some guidance on the subject of reasonable fees.~~⁴⁶ It is a commendable and long-standing tradition of the bar that special consideration is given in the fixing of any fee for services rendered a brother another [modification by Minnesota Supreme Court] lawyer or a member of his immediate family.

45. See ABA Canon 12.

46. ~~Id.~~

~~"Under Canon 12, this Committee has consistently held that minimum fee schedules can only be suggested or recommended and cannot be made obligatory."~~ ABA Opinion 302 (1961).

~~"A compulsory minimum fee schedule is contrary to Canon 12 and repeated pronouncements of this committee."~~ ABA Opinion 190 (1939).

~~Cf. ABA Opinions 171 (1937) and 28 (1930).~~

DR 2-105 LIMITATION OF PRACTICE.

(A) A lawyer shall not hold himself out publicly as a specialist or as limiting his practice, except as permitted under DR 2-102(A)(6) or as follows:

- (1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms, on his letterhead and office sign. A lawyer engaged in the

trademark practice may use the designation "Trademarks," "Trademark Attorney," or "Trademark Lawyer," or any combination of those terms, on his letterhead and office sign, and a lawyer actively engaged in the admiralty practice may use the designation "Admiralty," "Proctor in Admiralty," or "Admiralty Lawyer," or any combination of those terms, on his letterhead and office sign.

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DR 2-108 AGREEMENTS RESTRICTING THE PRACTICE OF A LAWYER.

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- (B) In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts his right to practice law, but he may enter into an agreement not to accept any other representation arising out of a transaction or event embraced in the subject matter of the controversy or suit thus settled.

DR 5-105 REFUSING TO ACCEPT OR CONTINUE EMPLOYMENT IF THE INTERESTS OF ANOTHER CLIENT MAY IMPAIR THE INDEPENDENT PROFESSIONAL JUDGMENT OF THE LAWYER

- (A) A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve him in representing differing interests, except to the extent permitted under DR 5-105(C).
- (B) A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client, or if it would be likely to involve him in representing differing interests, except to the extent permitted under DR 5-105(C).

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- (D) If a lawyer is required to decline employment or to withdraw from employment under DR 5-105 a Disciplinary Rule, no partner, or associate of his, or any other lawyer affiliated with him or his firm, may accept or continue such employment.
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EC 7-34 The impartiality of a public servant in our legal system may be impaired by the receipt of gifts or loans. A lawyer, therefore, is never justified in making a gift or a loan to a judge, a hearing officer, or an official or employee of a tribunal except as permitted by Section C(4) of Canon 5 of the Code of Judicial Conduct, but a lawyer may make a contribution to the campaign fund of a candidate for judicial office in conformity with Section B(2) under Canon 7 of the Code of Judicial Conduct.

DR 7-102 REPRESENTING A CLIENT WITHIN THE BOUNDS OF THE LAW.
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- (B) A lawyer who receives information clearly establishing that:
- (1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so, he shall reveal the fraud to the affected person or tribunal, except when the information is protected as a privileged communication.
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DR 7-110 CONTACT WITH OFFICIALS

- (A) A lawyer shall not give or lend any thing of value to a judge, official, or employee of a tribunal except as permitted by Section C(4) of Canon 5 of the Code of Judicial Conduct, but a lawyer may make a contribution to the campaign fund of a candidate for judicial office in conformity with Section B(2) under Canon 7 of the Code of Judicial Conduct.
- (B) In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:
- (1) In the course of official proceedings in the cause.
 - (2) In writing if he promptly delivers a copy of the writing to opposing counsel or to the adverse party if he is not represented by a lawyer.
 - (3) Orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.
 - (4) As otherwise authorized by law, or by Section A(4) under Canon 3 of the Code of Judicial Conduct.

DR 8-103 LAWYER CANDIDATE FOR JUDICIAL OFFICE

- (A) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of Canon 7 of the Code of Judicial Conduct.