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RULES OF THE ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION

For Disciplinary Proceedings Under Illinois Supreme Court Rules 701-777

Article I General

RULE 1 Preamble

It is the policy of the Commission that disciplinary and unauthorized practice of law matters be handled expeditiously, with due regard to the right of the respondent to have adequate time to prepare his defense. The courts, the public, the bar, and the respondents have a vital interest in an early determination of any charge which bears upon the fitness of an attorney to practice his profession or an allegation of unauthorized practice of law. The elimination of unnecessary delay was a major objective of the Court in creating the Commission and in establishing the office of Administrator. Implementation of this objective is one of the principal purposes of the following rules.

(Amended, December 7, 2011, effectively immediately.)

RULE 2 Definitions

As used in these rules:

(a) **Misconduct.** Misconduct is behavior of an attorney which violates the Illinois Rules of Professional Conduct.

(b) **Charge.** A charge is information which may constitute an allegation of misconduct by an attorney or an allegation of unauthorized practice of law.

(c) **Chair.** The Chair is a person designated by the Commission to serve as chairperson of an Inquiry Board panel or a Hearing Board panel.

(d) **Respondent.** A respondent is an attorney charged with misconduct or under investigation by the Administrator or a person, whether an individual, entity or association, charged with the unauthorized practice of law or under investigation under an allegation of the unauthorized practice of law.

(e) **Complaining Witness.** A complaining witness is a person who makes a charge of misconduct or an allegation of the unauthorized practice of law.

(f) **Clerk.** The Clerk of the Commission is the person designated by the Administrator to receive, keep and maintain the files, pleadings, records, documents, evidence and other papers of the various panels and boards related to the work of the Commission and its Boards.

(Amended, effective July 25, 1986; amended, effective April 15, 1994; Amended, December 7, 2011, effectively immediately; amended January 25, 2017, effective immediately.)

RULE 3 Construction

The masculine form of a word includes the feminine. Except for proper nouns, the singular form includes the plural and the plural the singular.

RULE 4 Term Limits

(a) **General Rule.** Commission appointments of board members shall be limited to nine consecutive annual terms, except as otherwise provided in this rule.

(b) **Applicability of Term Limits.** Except as provided in paragraphs (c) and (d) of this rule, term limits apply to consecutive appointments of board members to the same position on the same board. An appointment to a different position or to a different board or an appointment following a break in service of at least one year shall be deemed to be the first appointment toward the nine consecutive appointment term limit for that position. The Inquiry Board, the Hearing Board, the Oversight Committee, the Client Protection Review Panel and any other body established by the Commission pursuant to these rules shall be deemed different boards. The positions of chair and of member of a panel of any of these bodies shall be deemed different. Term limits shall not affect an appointment that continues until further order pending the completion of the Commission's annual appointment process.

(c) **Chairs of Hearing Board Panels.** Commission appointments of Chairs of Hearing Board panels shall not be subject to term limits.

(d) **Implementation.** The term limit provisions of this rule shall be implemented over a five year period, beginning with appointments for 2013.

(Adopted, January 2, 2012, effective February 28, 2013.)

RULES 5 through 50 Reserved.

Article II Investigations By The Administrator

RULE 51 Initiation of an Investigation

The Administrator may initiate an investigation on his own motion based upon information from any source.

RULE 52 Charges

Charges received by the Administrator shall be in writing, shall identify the respondent and the person making the charge, and shall be sufficiently clear to apprise the respondent of the misconduct or unauthorized practice charged. In his discretion, the Administrator may provide assistance at his office to persons desiring to make a charge and may furnish forms for that purpose. The Administrator is not required to investigate any charge which does not meet the requirements of this rule, although in his discretion he may do so.

(Amended, effective July 25, 1986; amended, effective April 15, 1994; Amended, December 7, 2011, effectively immediately.)

RULE 53 Duty of Attorneys

The Administrator may request the respondent, or any other attorney who may have knowledge of pertinent facts, to provide information, in writing, concerning the matter under investigation. Such requests by the Administrator may be made by letter. It shall be the duty of every attorney admitted to practice in this state to respond within 14 days to any such request from the Administrator.

RULE 54 Closure by Administrator

The Administrator shall close an investigation upon the Administrator and respondent's entry into a diversion agreement pursuant to Commission Rule 56 or upon the Administrator's conclusion that there is insufficient evidence to establish that the respondent has engaged in

misconduct or to establish an allegation of unauthorized practice of law. The Administrator shall notify the complaining witness of the decision to close an investigation. Closure by the Administrator shall not bar the Administrator from resuming the investigation if circumstances warrant. The Administrator shall report to the Commission actions taken under this rule.

(Amended, effective October 21, 1988; Amended, December 7, 2011, effectively immediately; amended September 26, 2016, effective November 18, 2016.)

RULE 55 Reference to Inquiry Board

When the Administrator concludes that there is sufficient evidence to establish that the respondent engaged in misconduct or the unauthorized practice of law or the Administrator believes consideration by the Inquiry Board is warranted, the Administrator shall refer the matter to the Inquiry Board. At the time the referral is made, the Administrator shall send notice of the referral to the respondent. The notice shall state the date upon which the Inquiry Board is scheduled to consider the matter, shall state that a complaint may be voted or unauthorized practice of law proceedings may be authorized, and shall include information as to how the respondent may request an appearance before the Inquiry Board. In any matter as to which the respondent has not previously been afforded an opportunity to respond, the notice shall include information as to how a response may be submitted, and in cases where the respondent has previously been afforded an opportunity to respond, the notice shall contain information as to how the respondent can submit any additional information to be considered by the Inquiry Board. The notice shall be sent by regular mail, postage prepaid, addressed to the respondent at the address shown on the Master Roll, or if the respondent's name does not appear on the Master Roll, at his last known business address or residence address.

(Amended, effective Oct. 21, 1988; amended, effective May 1, 2001; Amended, December 7, 2011, effectively immediately.)

RULE 56 Diversion

(a) **Eligibility.** The Administrator and respondent may agree to a diversion of the respondent to a program designed to afford the respondent an opportunity to address concerns identified in the investigation if the Administrator concludes that diversion would benefit and not harm the public, profession and the courts, and the conduct under investigation does not involve any of the following:

- (1) misappropriation of funds or property of a client or third party;
- (2) a criminal act that reflects adversely on the attorney's honesty;
- (3) actual injury (loss of money, legal rights or valuable property rights) to a client or other person, unless restitution is made a condition of diversion; or
- (4) dishonesty, fraud, deceit, or misrepresentation.

(b) **Requirements.** The diversion agreement may require completion of one or more of the following activities:

- (1) a mentoring program eligible for MCLE professional responsibility credit pursuant to Rule 795(d)(11);
- (2) a law office management program;
- (3) a continuing legal education program;
- (4) testing, evaluation and/or treatment by the Lawyers' Assistance Program, medical or psychological provider;
- (5) arbitration or mediation;
- (6) audit of respondent's financial accounts; and/or
- (7) any other requirement agreeable to the Administrator and the respondent.

(c) **Agreement.** The terms of the diversion shall be set forth in a written agreement between the Administrator and respondent. The agreement shall specify the general purpose of the diversion, the investigations involved in the diversion, the requirements of the diversion, the length of time in which the requirements shall be completed, and any requirement for payment of restitution or costs.

(d) **Costs.** The respondent shall pay all the costs incurred in connection with participation in the diversion agreement.

(e) **Effect.** Upon entry into the diversion agreement, the underlying investigation(s) shall be closed by the Administrator. Diversion shall not constitute a form of discipline. .

(f) **Failure to Comply.** If the respondent fails to comply with the requirements of the diversion agreement, the Administrator may modify the requirements of the diversion agreement or terminate the diversion agreement and reopen the investigation(s).

(g) **Effect of Rejection of Recommendation.** If the respondent refuses to enter into a proposed diversion agreement, the investigation shall proceed as if no such proposal had been made.

(Adopted September 26, 2016, effective November 18, 2016.)

RULES 57 through 100 Reserved

Article III The Inquiry Board

RULE 101 Organization

The Inquiry Board shall act in panels composed of two lawyers and one nonlawyer. Two members of the panel shall constitute a quorum. The concurrence of two members shall be necessary to a decision by the panel. The decision of a panel shall be the decision of the Inquiry Board. In the absence of the chair of a panel at a meeting, the members present shall designate one of the members as acting chair. A panel may reconsider its decision to dismiss an investigation, to close an investigation, to vote a complaint prior to the filing of the complaint with the clerk of the Commission, or to institute unauthorized practice of law proceedings prior to the institution of those proceedings.

(Amended, effective July 25, 1986; amended, effective April 15, 1994; Amended, December 7, 2011, effectively immediately.)

RULE 102 Function and Procedure of Inquiry Board

The Board shall determine whether there is sufficient evidence for the filing of a complaint or petition with the Hearing Board or unauthorized practice of law proceedings. The Board shall review the investigation made by the Administrator. The Board may direct any additional investigation it deems appropriate and require the attendance of witnesses before it or one of its members. Where the Board deems appropriate, it may allow or require the appearance of the respondent, but the Board shall not be required to allow the respondent's appearance. The Board shall not determine the merits of the charge or conduct adversary hearings. The Board is not required to hear the testimony of witnesses. The Board may determine to defer further proceedings where warranted by the circumstances as set forth in Rule 108.

(Amended, effective July 12, 1990; amended, effective May 1, 2001 Amended, December 7, 2011, effectively immediately..)

RULE 103 Inquiry Panel Agenda

The Administrator shall:

- (a) prepare an agenda in advance for each meeting of a panel; and
- (b) maintain minutes of the meeting, indicating the disposition of each investigation on the agenda, whether a complaint shall be voted, unauthorized practice of law proceedings shall be authorized, the investigation dismissed, the investigation closed, or the matter continued for further action.

(Amended, effective July 25, 1986 Amended, December 7, 2011, effectively immediately..)

RULE 104 Prompt Disposition

Investigations before the Board shall be disposed of promptly.

(Amended, effective July 25, 1986.)

RULE 105 Notice that Complaint may Be Voted.

(Amended, effective July 25, 1986; deleted effective May 1, 2001.)

RULE 106 Right to Counsel

If respondent appears before a panel, or one of its members, he may be represented by counsel.

(Amended, effective July 25, 1986.)

RULE 107 Notification to Complaining Witness

The Administrator shall notify the complaining witness of the decision of the Inquiry Board.

RULE 108 Determination to Defer Further Proceedings

(a) **Deferral.** With the agreement of the Administrator and the attorney, the Inquiry Board may determine to defer further proceedings pending the attorney's compliance with conditions imposed by the Board for supervision of the attorney for a specified period of time not to exceed one year unless extended by the Inquiry Board prior to the conclusion of the specified period. Proceedings may not be deferred under the provisions of this Rule if:

- (1) the conduct under investigation involves misappropriation of funds or property of a client or a third party;
- (2) the conduct under investigation involves a criminal act that reflects adversely on the attorney's honesty;
- (3) the conduct under investigation resulted in or is likely to result in actual prejudice (loss of money, legal rights or valuable property rights) to a client or other person, unless restitution is made a condition of deferral; or
- (4) the attorney has previously been disciplined or placed on supervision as provided in this Rule.

(b) **Conditions.** Such conditions shall take into consideration the nature and circumstances of the conduct under investigation by the board and the history, character and condition of the attorney. The conditions may include, but are not limited, to the following:

- (1) periodic reports to the Administrator;
- (2) supervision of the attorney's practice or accounting procedures;
- (3) satisfactory completion of a course of study;
- (4) successful completion of the Multistate Professional Responsibility Examination;
- (5) compliance with the provisions of the Rules of Professional Conduct;
- (6) restitution;

- (7) psychological counseling or treatment; and
- (8) abstinence from alcohol or drugs.

(c) **Affidavit.** Prior to the Inquiry Board entering its determination to defer further proceedings, the attorney shall execute an affidavit setting forth the following:

- (1) the nature of the conduct under investigation by the Inquiry Board as admitted by the attorney;
- (2) the conditions to be imposed by the Inquiry Board for supervision of the attorney;
- (3) that the attorney does not object to the conditions to be imposed;
- (4) that the attorney understands that should he fail to comply with the conditions imposed by the Inquiry Board a formal complaint may be voted and filed with the Hearing Board;
- (5) that the admissions by the attorney with respect to his or her conduct may be introduced as evidence in any further proceedings before the Hearing or Review Board; and
- (6) that the attorney joins in the Inquiry Board's determination freely and voluntarily, and understands the nature and consequences of the Board's action.

(d) **Supervision.** The Administrator shall be responsible for the supervision of the conditions imposed by the Inquiry Board. Where appropriate, he may recommend to the Board modifications of the conditions and shall report to the Board the attorney's failure to comply with the conditions or to cooperate with the Administrator. Upon a showing of the attorney's failure to comply with conditions, the Board may request that any deferred matters be returned to its agenda for future consideration.

(e) **Compliance.** Upon the attorney's successful compliance with the conditions imposed by the Inquiry Board, the Board shall dismiss or close the investigations pending before it at the time it determined to defer further consideration.

(Adopted July 9, 1990; amended, effective October 23, 1992.)

RULES 109 through 200 Reserved.

Article IV The Hearing Board

RULE 201 Organization

The Hearing Board shall act in panels composed of two lawyers and one nonlawyer. The Commission will designate one of the lawyer members as Chair of the panel. Two members of the panel shall constitute a quorum. The Administrator and the respondent may consent to a hearing before one member of the panel; however, the concurrence of two members of a panel shall be necessary to a decision. In the absence of the Chair at a hearing, the remaining lawyer member shall serve as acting chair. The decision of the panel shall be the decision of the Hearing Board.

(Amended, effective July 25, 1986; amended, effective April 15, 1994.)

RULES 202 through 210 Reserved

RULE 211 Preparation and Form of Complaint

A complaint voted by the Inquiry Board shall be prepared by the Administrator and captioned "In the Matter of Attorney-Respondent No. _____." The complainant shall be the Administrator. The complaint shall contain a concise statement of the facts constituting the alleged misconduct.

RULE 212 Docketing and Assignment to Panel for Hearing

The complaint shall be filed with the Clerk. The Clerk shall docket the complaint and shall assign the matter to a hearing panel in accordance with procedures and policies established by the Commission. If any member of the panel is unavailable to hear the matter, the Clerk shall assign another member of the Board to serve on the panel hearing the matter.

(Amended December 11, 1992, effective March 1, 1993.)

RULE 213 Reserved

RULE 214 Service of Complaint

The Clerk shall cause a copy of the complaint, a copy of these rules and a notice of the hearing to be served on the respondent within or without the State of Illinois as follows:

(a) **By Personal Service.** Personal service shall be made by leaving a copy with the respondent personally; or

(b) **By Mail Service.** If a person authorized to make personal service, as provided in Rule 215 below, files with the Hearing Board his affidavit that the respondent (1) resides out of the state, (2) has left the state, (3) on due inquiry cannot be found, or (4) is concealed within the state so that process cannot be served upon him, the Administrator shall serve the respondent by ordinary mail, postage fully prepaid, directed to the respondent at the address shown on the Master Roll or if he is not listed on the Master Roll at his last known business or residence address. The Administrator's certificate of mailing is sufficient proof of service.

RULE 215 Persons Authorized to Make Service

Personal service may be made:

(1) By a member of the Administrator's staff;

(2) By the Sheriff of any county in which the respondent is found;

(3) At the direction of the chair of the hearing panel to which a matter is assigned, by any member of the bar of this state; or

(4) In another state, by any resident of the state who, by the laws or rules of court of that state, is authorized to serve process in disciplinary proceedings.

RULES 216 through 230 Reserved

RULE 231 Return Date

The respondent shall answer the complaint within 21 days after personal service or within 28 days after the date of mailing when service is by mail. Respondent shall include in a separate section in the answer the following information related to respondent's professional background:

(a) whether respondent has ever been admitted to practice law before any other state court, federal court or administrative agency or admitted before the bar of any foreign country and, if so, the identity of each such court, jurisdiction or agency; the year of each such admission; the full name under which respondent was admitted and any subsequent name changes; and any bar or registration number assigned; and

(b) whether respondent has ever received any other professional license or certificate and, if so, the identity of each such issuing entity; the year of issuance of each such license or certificate; the full name under which the license or certificate was issued to respondent and any subsequent name changes; and any certificate or registration number assigned.

(Amended effective March 31, 1995; amended effective February 1, 2013..)

RULE 232 Pleadings Subsequent to the Complaint

The original of each pleading subsequent to the complaint shall be filed by the pleader with the Clerk. A copy of any pleading filed shall be served in the manner prescribed for the service of papers by the rules of the Supreme Court.

RULE 233 Answer to be Specific

The answer shall specifically admit or deny each allegation of the complaint. Every allegation not specifically denied is deemed admitted unless the answer states the reason the respondent is unable to make a specific denial.

RULE 234 Replies

No reply shall be filed by the Administrator. Any new matter alleged in the respondent's answer shall be deemed denied.

RULE 235 Motions

All motions shall be made in writing prior to hearing. Rulings on motions shall be made by the chair of the panel or in a manner as the chair shall determine. No oral arguments shall be allowed on motions. The movant may submit written authority in support of the motion and the other party may submit counter authority within 7 days after receipt of the movant's authority. To facilitate the development of a full evidentiary record in matters other than default proceedings, dispositive motions such as those seeking summary judgment or dismissal prior to completion of the evidentiary record on charges shall not be permitted. This rule is not intended to prevent motions pursuant to Illinois Supreme Court Rules 201 and 219 or motions for a directed finding at hearing.

(Amended, effective September 1, 2012.)

RULE 236 Failure to Answer

When the respondent fails to answer to the complaint, as required by Rules 231 through 233, upon motion of the Administrator and notice to the respondent, all factual allegations and disciplinary charges shall be deemed admitted, and no further proof shall be required. A respondent who has failed to answer timely may seek leave of the hearing panel to vacate an order of default and file an answer upon a showing that his failure to answer was a result of mistake, inadvertence, surprise or excusable neglect. At any hearing in which the allegations of the complaint have been deemed admitted, the respondent and Administrator shall be limited to presenting evidence of aggravating and mitigating factors and arguments regarding the form and amount of discipline to be imposed. No hearing shall be conducted within twenty-eight days of the entry of an order vacating an order of default.

(Amended, effective October 21, 1988; amended effective February 1, 2013.)

RULE 237 Master File

The electronic record is designated as the official record of proceedings. The complaint and all subsequent pleadings and other documents shall be filed with the Clerk. The Clerk shall maintain an electronic record of all such documents for each proceeding, which shall constitute the master file for each proceeding. The Clerk may dispose of paper versions of documents filed as part of an electronic record.

(Amended, effective January 1, 2016.)

RULES 238 through 250 Reserved

RULE 251 Discovery

(a) Except as provided herein, discovery practice shall be in accordance with the Code of Civil Procedure and the Rules of the Supreme Court. Written interrogatories shall not be served by any party without leave of the chair of the hearing panel and upon good cause shown. At any time after the respondent has been served, either party may request admissions of fact and genuineness of documents pursuant to Supreme Court Rule 216. Discovery shall be filed with the clerk of the Commission, with the exception of discovery depositions and items produced pursuant to discovery requests.

(b) Work Product.

(1) The Administrator and the respondent shall be entitled to a work product privilege for materials prepared by their respective counsel or counsel's agents, including employed or independently retained paralegals and investigators, in anticipation of proceedings under Supreme Court Rules 751 *et seq.*, or for purposes of proceedings pending under those Rules. Work product includes, but is not limited to, notes and memoranda prepared by counsel or counsel's agents of witnesses' oral statements which are not verbatim and which have not been reviewed, altered, corrected or signed by the witness, except that the privilege does not extend to those portions of memoranda of investigators and paralegals that provide the investigator's or paralegal's summary of the statements of those interviewed and other factual information..

(2) Neither the Administrator nor the respondent shall be compelled to disclose work product in the course of discovery under these rules except upon a showing of the absolute impossibility of securing similar information from other sources. If the Chair determines that there is no possibility of the requesting party securing similar information from another source, the Chair may order the other party to produce for in camera review the work product that contains the otherwise unobtainable information with proposed redactions of mental impressions, characterizations, theories, instructions to staff that reveal investigative or litigation strategy, and litigation plans, as well as factual information otherwise obtainable. Having so ordered, the Chair shall review the work product material and the proposed redactions, and, thereafter, order disclosure of only otherwise unobtainable factual information.

(3) Disclosure or production of information or materials to a Respondent, Petitioner, or the Administrator during an investigation or proceeding does not constitute subject matter waiver of the party's work product privilege.

(Amended, effective April 1, 1996; amended effective September 30, 2005; amended effective for matters filed before the Hearing Board on or after February 1, 2013.)

RULE 252 Diligence in Discovery

(Deleted effective September 1, 2012.)

RULE 253 Disclosure of Witnesses

(a) Within 28 days of service of the complaint upon respondent, the Administrator and the attorney-respondent shall file a report disclosing the name, address and telephone numbers of persons who have knowledge of facts which are the subject of the proceeding, and identifying the subject matter of their knowledge. The Administrator and attorney-respondent have a duty to seasonably supplement or amend any prior answer or response whenever new or additional information subsequently becomes known to that party. The Administrator and attorney-respondent shall disclose to all parties of record any reports about the case received from an expert witness who will testify at hearing within a reasonable time after receipt of the report.

(b) The Hearing Board shall not allow the Administrator or the attorney-respondent to offer the testimony of any person whose identity and location is not disclosed in a report pursuant to this rule, but the Hearing Board shall not bar testimony of a witness based upon the adequacy of the disclosure of the subjects of the witness' testimony, absent a showing of substantial prejudice by the party seeking to bar the testimony. The Hearing Board shall not allow the Administrator or the attorney-respondent to offer the testimony of any expert witness who provided a report to the party calling that expert witness, if that report has not been timely disclosed to all other parties.

(Adopted, effective Apr. 24, 1987; amended, effective September 30, 2005.)

RULES 254 through 259 Reserved.

RULE 260 Prehearing Conferences

(a) **Prehearing Conferences.** Pre-hearing Conferences. As soon as practicable after the filing of the petition, answer or after the time for filing an answer has elapsed, a member of the Hearing Board who has been designated Chair in the case shall schedule and preside over a pre-hearing conference. All pre-hearing conferences may take place at the offices of the Attorney Registration and Disciplinary Commission or by telephone, as determined by the Chair. The respondent or petitioner, counsel for respondent or petitioner if any, and counsel for the Administrator shall personally attend all pre-hearing conferences unless excused by the Chair.

(b) **Objectives.** The Chair is responsible for bringing the case to a full and fair hearing in a timely and efficient manner. In furtherance of this responsibility, the Chair shall conduct prehearing conferences to consider and take action regarding:

- (1) the formulation and simplification of the issues;
- (2) the elimination of frivolous charges or defenses;
- (3) the necessity of amendments to the pleadings;
- (4) entry into stipulations regarding undisputed evidence and obtaining prehearing rulings on the admissibility of evidence;
- (5) the identification and limitation of witnesses, including character or expert witnesses;
- (6) the possibility of discipline on consent pursuant to Supreme Court Rule 762;
- (7) the supervision of discovery;
- (8) the scheduling of the hearing; and
- (9) any other matters which may aid in the disposition of the action.

(c) **Scheduling Order.** In all cases where a complaint has been filed pursuant to Supreme Court Rules 753 or 761, the Chair shall enter a scheduling order, as soon as practicable, establishing dates certain for the following matters and any other matters the Chair deems appropriate:

- (1) the filing of an answer if none has been filed;
- (2) the filing of reports pursuant to Commission Rule 253 if none has been filed;
- (3) the filing of motions pursuant to Commission Rules 235 and 236;
- (4) retention of counsel by *pro se* respondents;
- (5) a discovery cut-off date, including specific dates for document production and depositions as deemed necessary by the Chair. However, all discovery shall be completed no later than 14 days prior to the date set for hearing;
- (6) the filing of stipulations;
- (7) the exchange of exhibits;

(8) the filing of a joint motion for approval to file petition to impose discipline on consent pursuant to Supreme Court Rule 762(b);

(9) hearing date.

(d) **Additional Prehearings.** The Chair may modify the scheduling order and hold additional pre-hearing conferences as deemed necessary.

(e) **Order.** For each prehearing conference, the Chair shall enter an order reciting any action taken by the Chair and reciting any agreements made by the Administrator and the respondent or petitioner and approved by the Chair.

(f) **Sanctions.** The Chair shall, in addition to any other sanctions authorized by Supreme Court Rule or Commission Rule, make and enforce all rules and orders necessary to compel compliance with this rule.

(Amended, effective October 21, 1988; amended, effective April 15, 1994; amended, effective May 1, 2001, amended, effective September 1, 2012.)

RULE 261 Substitution and Recusal of Hearing Chair and Panel Members

(a) **In General.** Substitution of the Chair of the Hearing panel assigned to a case may be requested consistent with the provisions of Section 5/2-1001 of the Code of Civil Procedure. Parties may request substitution of Hearing panel members other than the Chair due to the involvement of the panel member, as provided in Section 5/2-1001(a)(1), or for cause, as provided in Section 5/2-1001(a)(3). Motions for a substitution of a Chair for cause shall be heard by the Chair of the full Hearing Board or another Chair designated by him. Motions for substitution of a panel member other than the Chair shall be heard by the Chair assigned to the case.

(b) **After Denial of Approval to File Consent Petition.** Whenever a panel denies a motion for leave to file a petition presented pursuant to Supreme Court Rule 762(b), the members of that panel shall recuse themselves from further proceedings in the case and the case shall be assigned to a different panel of the Hearing Board.

(Effective May 1, 2001.)

RULES 262 through 270 Reserved

RULE 271 (Deleted, effective October 21, 1988)

RULE 272 Continuances

The Chair may continue a hearing or prehearing conference at the Chair's discretion. No hearing or prehearing conference shall be continued at the request of any party except upon written motion supported by affidavit. No hearing shall be continued at the request of a party except under extraordinary circumstances. Engagement of counsel shall not be deemed an extraordinary circumstance. No prehearing conference shall be continued at the request of a party except for good cause.

(Adopted, effective March 10, 1987; amended, effective April 15, 1994; amended, effective September 1, 2012.)

RULE 273 Evidence

The admissibility of matters offered in evidence in proceedings brought pursuant to these rules shall be governed by the Code of Civil Procedure and Rules of the Supreme Court. An affidavit or letter which attempts to establish the character or reputation of a respondent or petitioner shall not be admitted. Evidence concerning the character or reputation of a respondent or petitioner may be limited by the hearing panel as the interest of justice requires.

RULE 274 Hearings to be Continuous

Hearings shall continue from day to day until the taking of evidence has been completed. Hearings may be held on Saturday.

RULE 275 Exclusion of Witnesses

Upon motion of either party, the hearing panel may exclude witnesses from the hearing.

(Adopted May 11, 1990, effective June 1, 1990.)

RULE 276 Exhibits

Each party must appear at hearing with all documentary exhibits prepared in the following manner:

(a) The first page of each exhibit or group exhibit shall be labeled as Administrator's Exhibit (Adm. Ex.), Respondent's Exhibit (Resp. Ex.), or Petitioner's Exhibit (Pet. Ex.), with the appropriate number of the exhibit.

(b) Any exhibit that contains more than one page shall be bound, stapled or otherwise fastened permanently, and shall have all pages of that exhibit consecutively numbered.

(c) Prior to the start of the hearing, each party shall tender to the Chair, on a form provided by the Clerk, a table of the exhibits the party plans to offer. A copy of the table shall be served upon opposing counsel.

(d) At the close of evidence and before the hearing is adjourned, it shall be the duty of each party to assure that all exhibits that were admitted into evidence for that party and all exhibits that were the subject of an offer of proof by that party during the hearing have been delivered to the Chair in a form consistent with this rule.

(Adopted June 30, 1995, effective immediately.)

RULE 277 Prior Discipline

If the hearing panel concludes that the Administrator has established that the respondent engaged in misconduct, the Chair shall enter an order directing the Administrator to file within seven days copies of any orders or opinions imposing discipline on the respondent, that are not already in evidence. At the same time, the Administrator may file written argument not to exceed five pages in length regarding the effect to be given to the prior discipline. Within seven days after the filing of prior disciplinary orders or opinions, the respondent may file a written argument not to exceed five pages in length regarding the effect to be given to the prior discipline.

(Adopted May 11, 1990, effective June 1, 1990.)

RULES 278 through 280 Reserved

RULE 281 Report of the Hearing Board

The report of the Hearing Board shall be prepared by the panel as soon as practicable after completion of the hearing. The report shall be filed with the Clerk. The Clerk shall serve a copy upon the respondent and the Administrator.

RULE 282 Reprimands

The hearing panel may order that it will administer a reprimand to respondent. The reprimand shall include a description of the respondent's misconduct and the reasons for the reprimand.

(a) **Order.** The order and the proposed reprimand shall be filed with the Clerk. The order shall designate the time and place for the delivery of the proposed reprimand, not less than 21

days after the filing of the order. The Clerk shall serve a copy of the order and proposed reprimand upon the respondent and the Administrator.

(b) **Exceptions.** The respondent or the Administrator may, within 21 days thereafter, file exceptions to the order with the Review Board as provided by Supreme Court Rule 753(e). Upon the filing of exceptions, the matter shall be reviewed by the Review Board. If no exceptions are filed, the order shall become final.

(c) **Delivery.** The hearing panel shall deliver the reprimand to the respondent orally and in writing.

(d) **Subsequent Disciplinary Proceedings.** The reprimand may be admitted into evidence in any subsequent disciplinary proceeding relating to the respondent in accordance with Supreme Court Rule 753(c)(5) and Commission Rule 277 and 314.

(Amended May 11, 1990, effective June 1, 1990.)

RULE 283 Notification to Complaining Witness

The Administrator shall notify the complaining witness of the action taken by the Hearing Board.

RULE 284 Post-Trial Procedures

(a) **Post-Trial Motions.** Except as provided herein, post-trial motions shall not be filed with or considered by the Hearing Board. A matter which might otherwise be presented by post-trial motion may be the subject of an exception filed with the Review Board. Motions for an extension of the time within which to file exceptions to the report of the Hearing Board shall be ruled upon by the chair of the hearing panel which prepared the report.

(b) **Closing Argument.** The Hearing Board shall not allow or consider written summations, written closing argument or post-trial memoranda.

(Amended, effective July 25, 1986.)

RULES 285 through 290 Reserved

RULE 291 Perpetuating Testimony

(a) **Petition.** The Administrator, an attorney, or any person who is or has been the subject of proceedings pursuant to these rules or the disciplinary rules of the Supreme Court may file with the Clerk a petition for an order authorizing the petitioner to take a deposition for the purpose of perpetuating testimony. The petition shall be captioned "In the Matter of Attorney-Respondent No. _____." The petition shall state:

- (i) the name and address of the person to be examined;
- (ii) the facts which the petitioner desires to establish by the proposed testimony; and now it
- (iii) the reasons for perpetuating the testimony.

(b) **Service on the Administrator.** Service on the Administrator shall be made by mailing or delivering the original and two copies of the petition to the office of the Administrator in Springfield or Chicago directed to the attention of the Clerk of the Commission.

(c) **Service on an Attorney or Other Person.** Service of the petition on an attorney or other person shall be made in the same manner provided by Rules 214 and 215 for service of a complaint.

(d) **Filing and Docketing by Clerk.** Upon receipt of the petition, the Clerk shall file and docket it. If the matter which is the subject of the petition has been assigned to a hearing panel, the Clerk shall assign the petition to the chair of that panel. If the matter which is the subject of

the petition has not been assigned to a hearing panel, the Clerk shall assign the petition to a chair of a hearing panel in accordance with procedures and policies established by the Commission.

(e) **Order and Examination.** If the chair of the hearing panel assigned to hear the petition determines that the perpetuation of the testimony may prevent a failure or delay of justice, he shall designate or describe the persons whose depositions are to be taken specifying the subject matter of the examination and whether the depositions shall take upon oral examination or written questions and fixing the time, place and conditions of the examination. The order shall be filed with the Clerk who shall notify the parties of the entry of the order.

(Amended December 11, 1992, effective March 1, 1993.)

RULES 292 through 300 Reserved

Article V The Review Board

RULE 301 Review of Hearing Board Report, Notice of Exceptions

(a) **Method of Review.** Every report of the Hearing Board is reviewable by the Review Board as of right.

(b) **Time; Filing.** Review is initiated by filing a Notice of Exceptions with the Clerk of the Commission within 21 days of service of the Hearing Board Report to the parties. The party who files a Notice of Exceptions first shall be considered the appellant. The appellee need not file a Notice of Exceptions to assert additional error but shall assert any such additional error within his brief.

(c) **Form and Contents of Notice of Exceptions.** The Notice of Exceptions shall bear the title and number of the matter, naming and designating the parties in the same manner as before the Hearing Board and adding the further designation “appellant” or “appellee” (e.g. respondent-appellant). The Notice of Exceptions shall be titled as such and specify the Hearing Board Report or portion thereof excepted to and the relief sought from the Review Board, as well as the signature and address of each appellant or his or her attorney.

(Amended, effective January 15, 1988; amended, effective February 2, 1994.)

RULE 302 Briefs

(a) **Time.** Unless the Review Board orders otherwise, the brief of the appellant shall be filed with the Clerk of the Commission no later than 35 days after the date that the Notice of Exceptions is due. Within 35 days from the due date of the appellant's brief, the appellee shall file a brief with the Clerk. Within 14 days from the due date of the appellee's brief, the appellant may file a reply brief. Should the appellee raise additional errors in his brief, the appellant's reply brief shall also address those errors, shall be designated as the appellant-cross-appellee's reply brief, and shall be filed within 14 days of the filing of the appellee's brief. The appellee may file a reply brief confined strictly to replying to the appellant's argument on the additional errors within 14 days after the due date of the appellant-cross-appellee's reply brief. If the brief of the appellee raises additional errors in his brief, the cover of the brief shall be captioned: Brief of Appellee. Cross Relief Requested. Should the Review Board allow a brief to be filed after the date it is due, the Review Board may extend the due date of any subsequent brief as necessary.

(b) **Number of Copies and Service.** The original and one copy of each brief shall be filed with the Clerk of the Commission. In addition, the party shall serve three copies upon the other party to review. Proof of service shall be filed with all briefs.

(c) **Extensions.** The Review Board may upon the motion of a party extend the time to file a brief. The motion must be accompanied by a supporting affidavit showing the number of previous extensions granted and the reason for each extension. Such motions are not favored and will be allowed only in the most extreme and compelling circumstances. The original and one copy of the motion shall be filed with the Clerk of the Commission. In addition, the party shall serve one copy upon the other party to review. A notice of filing with proof of service shall be filed with all motions.

(d) **Page Limitations and Format Requirements.** Unless authorized by the Review Board, the appellant's brief and the appellee's brief, excluding appendices, shall each be limited to 50 pages, and the reply brief shall be limited to 20 pages. Neither narrow margins nor any other device shall be employed to evade the page limitation. Footnotes, if any, shall be used sparingly. The text of all briefs must be double-spaced, except for headings, quotations, and footnotes. At least 12-point type must be used in the body of briefs, and at least 10-point type must be used for footnotes. A motion to authorize the filing of briefs in excess of the limitations of this rule shall be filed before the brief is due and shall state the maximum number of pages requested. Motions to allow additional pages are not favored, and the specific grounds establishing the necessity for excess pages shall be clearly set forth in an affidavit filed in support of the motion.

(e) **Cover.** The cover of each brief shall contain the number of the matter, the status of each party at the Review Board level (e.g. respondent-appellant, Administrator-appellee), the individual names and addresses of the attorneys (or of the party if he or she is appearing *pro se*) filing the brief, and if desired, of their law firm, shall also be stated. The colors of the covers of the documents shall be: appellant's brief or petition, white; appellee's brief or answer, light blue; appellant's reply brief, light yellow; appellee's reply brief, light red.

(f) **Contents of Appellant's Brief.** The appellant's brief shall contain the following parts in the order named:

(1) A summary statement, entitled "Points and Authorities," of the points argued and the authorities cited in the Argument. This shall consist of the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished and a reference to the page of the brief on which each heading and each authority appear. Cases shall be cited as near as may be in the order of their importance.

(2) An introductory paragraph stating (i) the nature of the matter and of the recommendation appealed from, and (ii) whether any question is raised on the pleadings, and if so, the nature of the question.

(3) A statement of the legal issue or issues presented for review, without detail or citation of authorities.

(4) A Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal. Exhibits may be cited by reference to pages of the record on appeal or by exhibit number followed by the page number within the exhibit.

(5) Argument, which shall contain the contentions of the party and the reasons there for, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal where evidence may be found. Citation of numerous authorities in support of the same point is not

avored. Points not argued are waived and shall not be raised in the reply brief or oral argument.

(6) A short conclusion stating the precise relief sought, followed by the names of counsel as on the cover.

(7) An appendix containing the Hearing Board Report, the Notice of Exceptions, an index of the record, and the full text of each Rule of Professional Conduct at issue and related Comments.

(g) **Briefs of Appellee.** The brief for the appellee and other parties shall conform to the foregoing requirements, except that items (f)(2), (f)(3), (f)(4), and (f)(7) of this rule need not be included except to the extent that the presentation by the appellant is deemed unsatisfactory.

(h) **Reply Briefs.** The reply brief, if any, shall be confined strictly to replying to arguments presented in the brief of the appellee and need only contain Argument.

(i) **Nonconforming Briefs.** The Review Board may strike any brief or portion thereof that does not conform to the Rules, or take any other action authorized by precedent of the Supreme Court or Appellate Court for enforcing the requirements pertaining to the form and content of briefs, including refusing to review arguments not supported by citation to the record or legal precedent.

(j) **Failure to File.** If the appellant fails to file a brief within the time set by this rule or any additional time which the Review Board allows, the Review Board shall strike the exceptions of that appellant and the matter shall proceed as if those exceptions had not been filed.

(Amended December 1, 1995, effective immediately; amended, effective May 31, 2005; amended June 12, 2009, effective January 1, 2010; amended April 16, 2010, effective July 1, 2010; amended June 27, 2011, effective September 1, 2011; amended effective February 1, 2013.)

RULE 303 Reserved

RULE 304 Oral Arguments.

(a) **Request; Waiver; Dispensing with Oral Argument.** A party shall request oral argument by stating at the bottom of the cover page of the brief that oral argument is requested. If any party so requests and the Review Board grants oral arguments, all other parties may argue without an additional request. No party may argue unless a brief is filed as required by the rules. A party who has requested and been granted oral argument and who thereafter determines to waive oral argument shall promptly notify the Clerk of the Commission and the other party in writing no later than fourteen days before the date of the argument. Any party who has filed a brief without requesting oral argument may then request oral argument upon prompt notice to the Clerk and all other parties.

In determining whether to allow or require oral argument, the Review Board may consider whether oral argument would be necessary for consideration of the issues presented for review.

When oral argument is not requested, the matter shall be decided on the briefs unless the Review Board orders oral argument.

(b) **Length.** Unless the Review Board otherwise orders, each side shall argue for not more than 20 minutes, with an additional ten minutes rebuttal for the party with the right to close. The Review Board may grant additional time on motion filed with the Clerk of the Commission in advance of the date fixed for argument if it appears that additional time is necessary for the adequate presentation of the case. A party is not obliged to use all of the time allowed, and the Review Board may terminate the argument whenever in its judgment further argument is unnecessary.

(c) **Reading Prohibited.** Reading at length from the record, briefs, or authorities cited will not be permitted.

(d) **Sequence and Manner of Calling Matters for Oral Argument.** Matters shall be called for argument in accordance with procedures and policies established by the Commission.

(Amended, effective February 2, 1994.)

RULES 305 through 310 Reserved

RULE 311 Review Board Report

The report of the Review Board shall address the issues raised by the parties and need not address any portion of the Hearing Board report with which the parties have not taken issue. The Review Board report may consist of the adoption of the Hearing Board report. Unanimous reports shall be submitted in the name of the Review Board Panel. When there is a divided vote, the members constituting the majority and the member dissenting or concurring in part shall be named. Any member dissenting or concurring in part may submit a statement of position within a reasonable time following the filing of the report.

(Amended, effective February 2, 1994.)

RULE 312 Reprimands

The Review Board may order that it will administer a reprimand to respondent. The reprimand shall include a description of the respondent's misconduct and the reasons for the reprimand.

(a) **Order.** The order and proposed reprimand shall be filed with the Clerk. The order shall designate the time and place for the delivery of the proposed reprimand, not less than 21 days after the filing of the order and proposed reprimand upon the respondent and the Administrator.

(b) **Exceptions.** The respondent or the Administrator may, within 21 days thereafter, file exceptions or petition the Court for leave to file exceptions to the order as provided by Supreme Court Rule 753(e). Upon the filing of exceptions or a petition for leave to file exceptions, the proceeding in the Review Board shall be stayed pending action by the Supreme Court. If no exceptions are filed, the order shall become final.

(c) **Delivery.** The Review Board shall deliver the reprimand to the respondent orally and in writing.

(d) **Subsequent Disciplinary Proceedings.** The reprimand may be admitted in evidence in any subsequent disciplinary proceeding relating to the respondent in accordance with Supreme Court Rule 753(c)(5) and Commission Rule 277 and 314.

(Adopted May 11, 1990, effective June 1, 1990.)

RULE 313 Notification to Complaining Witness

The Administrator shall notify the complaining witness of the action taken by the Review Board.

RULE 314 Prior Discipline

In the event the Hearing Board did not find misconduct, but the Review Board concludes that the Administrator has established that the respondent engaged in misconduct, the Chair shall enter an order directing the Administrator to file within seven days copies of any orders or opinions imposing discipline on the respondent, that are not already in evidence. At the same time, the Administrator may file written argument not to exceed five pages in length regarding the effect to be given to the prior discipline. Within seven days after the filing of prior

disciplinary orders or opinions, the respondent may file a written argument not to exceed five pages in length regarding the effect to be given to the prior discipline.

(Adopted May 11, 1990, effective June 1, 1990.)

RULES 315 through 399 Reserved

Article VI Reinstatement

RULE 400 Presentation of Petition

In accordance with Supreme Court Rule 767(b), an attorney who has been disbarred, disbarred on consent, or suspended until further order of the court may present to the Administrator a copy of the petition he proposes to file with the Clerk of the Court within 120 days prior to the date on which the petition may be filed.

(Adopted, effective April 15, 1994.)

RULE 401 Presentation of Petition

A petition pursuant to Supreme Court Rule 767 shall restate subparagraphs (1) through (25) contained in Rule 402 below. The petitioner's response shall follow each restated subparagraph, except that, with respect to subparagraphs (2), (3), (4), (7), (8), (20), (22), and (23), the response may be "submitted under separate cover to the Administrator," provided that the required information and/or documents are delivered to the Administrator on the same date and by the same method as is used for filing the petition with the Court or presenting the petition to the Administrator. For the purpose of Rule 402 the term "period of discipline" means the interval between the date an attorney is disbarred, disbarred on consent or suspended until further order of the court and the date his verified petition seeking to be reinstated on the roll of attorneys is filed with the Clerk of the Court.

(Amended June 12, 2009, effective January 1, 2010.)

RULE 402 Content of Petition

The petition shall contain petitioner's response to the following:

- (1) The date on which discipline was imposed. If there was a reported opinion, the volume and page number;
- (2) The age, residence address and telephone number of the petitioner;
- (3) The name, age and address of all dependents of the petitioner;
- (4) During the period of discipline, the address of each residence of the petitioner, including temporary and part time residences, and the dates of each residence;
- (5) During the period of discipline, the name and address of each employer, associate or partner of the petitioner; the dates of each employment, association, or partnership; the positions occupied and titles held; the name and address of the immediate supervisor; and the reason for leaving the employment, association or partnership;
- (6) A statement including the case caption, general nature, dates and disposition of every civil or criminal action which pended during the period of discipline to which petitioner was either a party or claimed an interest;
- (7) A statement of the monthly earnings and other income of the petitioner and the sources from which all earnings and income were derived during the period of discipline;
- (8) A statement of assets and financial obligations of the petitioner during the period of discipline, the dates when acquired or incurred, the names and address of all creditors;

(9) Whether the discipline was related to a misappropriation or failure to account for any monies, a financial benefit to petitioner or a financial detriment to anyone, and a statement of the amounts involved, held or received by petitioner and the details of any restitution or accounting, including the dates and amounts, and the names and addresses of the persons to whom such restitution or accounting was made;

(10) During the period of discipline, whether the petitioner sought or obtained assistance, consultation or treatment for a mental or emotional disorder or for addiction to drugs or alcohol, and the name and address of each provider of services, and the services rendered, their duration and purpose;

(11) During the period of discipline, whether the petitioner was admitted to any institution, as an in-patient or out-patient, for a mental or emotional disorder or for addiction to drugs or alcohol, and the name and address of each institution, the date of petitioner's admission and discharge, the purpose of the admission, the diagnosis reached and the treatment rendered;

(12) A copy of petitioner's written authorization and consent to the Court and the Administrator to secure copies of all reports and records relating to the services referred to in subparagraphs (10) and (11) above;

(13) During the period of discipline whether the petitioner applied for admission or reinstatement to practice as an attorney in any court and the caption and details of the application or petition;

(14) Whether the petitioner has ever applied for a license or certificate relating to any business or occupation;

(15) During the period of discipline, whether petitioner engaged in the practice of law in any jurisdiction, and all material facts of the practice;

(16) During the period of discipline, whether the petitioner's name appeared together with the designation "lawyer," "attorney-at-law," "counselor at law" or similar description on any door or window, or any building, legal or telephone directory, and all facts relating to the listing, including its location, the place, and duration;

(17) All facts relating to petitioner's compliance with Supreme Court Rules 764, 773 and 780;

(18) All material facts upon which the petitioner relies to establish fitness to resume the practice of law;

(19) The address and telephone number for each location where petitioner maintained an office, business or engaged in the practice of law from the date of the petitioner's admission to the practice of law to the date the petition is filed with the Clerk of the Court.

(20) The names and addresses of all financial institutions at which petitioner had, or was signatory to, accounts, safety deposit boxes, deposits or loans during the period of discipline; the number of each account, box, deposit or loan; the date each account, box deposit or loan was opened, approved or made; and the date each account, box or loan was closed, discharged or paid;

(21) A copy of petitioner's written consent to the Court and Administrator to secure copies of all statements, records of accounts, cancelled checks and loan records in the financial institutions listed in response to sub-paragraph (20);

(22) Copies of petitioner's federal and state income tax returns for each of the five years immediately preceding the date the petition is filed and for each year, or part of a year, during the period of discipline and, in an appropriate form, petitioner's written consent to the Court and the Administrator to secure copies of the original returns;

(23) Copies of other tax returns, individual, partnership, corporate or fiduciary, which petitioner is entitled to inspect pursuant to the provisions of the Internal Revenue Code and appropriate state laws or regulations and, in an appropriate form, petitioner's written consent to the Court and the Administrator to secure copies of the original returns;

(24) A copy of petitioner's written consent to the Court and the Administrator to examine and secure copies of any records relating to any criminal investigation of petitioner, including but not limited to grand jury minutes, presentence investigations and probation and parole records; and

(25) A copy of current photographs, not smaller than three inches by three inches, of petitioner, front and side views; and

(26) The originals of the items required in paragraphs 12, 21, 24 and 25 shall be provided to the Administrator at the time the petition is served upon the Administrator.

(Amended, effective July 12, 1990; amended, effective April 15, 2004.)

RULES 403 through 410 Reserved

RULE 411 Filing of Petition.

(a) **Clerk of Commission.** The petitioner shall deliver four copies of the petition to the clerk of the Commission and shall deposit \$500 with the Commission to be applied against the costs, as defined in Supreme Court Rule 773 and required in Supreme Court Rule 767(c).

(b) **Service upon the Administrator.** The petitioner shall serve two copies of the petition upon the Administrator no later than the date the petition is filed with the clerk of the Commission.

(c) **Clerk of the Court.** Within seven days after the copies of the petition have been received by the clerk of the Commission, the petitioner shall file with the Clerk of the Court the original petition, accompanied by a receipt verifying payment of the \$500 deposit to the Commission pursuant to Supreme Court Rule 767(c), payment of any costs imposed in connection with prior proceedings involving the petitioner pursuant to Supreme Court Rules 773 and/or 767, and reimbursement by petitioner for all Client Protection payments arising from petitioner's conduct pursuant to Supreme Court Rule 780(e).

(Amended, effective April 15, 1994; amended, effective September 30, 2005.)

RULE 412 Assignment to Chair

Upon receipt of notification from the Supreme Court that the petition has been filed with the clerk of the Court, the clerk of the Commission shall docket the petition and shall assign the matter to a Chair of the Hearing Board in accordance with procedures and policies established by the Commission.

(Amended, effective April 15, 1994; amended, effective September 30, 2005.)

RULE 413 Prehearing Conference

Within sixty days after the petition is filed with the clerk of the Commission, the hearing panel shall conduct a pre-hearing conference to determine the date by which the Administrator must file any written objections to the petition and the date of the hearing.

(Amended, effective April 15, 1994.)

RULE 414 Investigation by Administrator; Objections and Participation in Hearing

The Administrator shall conduct an investigation into any matter raised by the petition and may file with the clerk of the Commission written objections to the petition within the time specified by the hearing panel. The Administrator shall have a right to participate in the hearing.

(Amended, effective April 15, 1994.)

RULE 415 Hearing and Review Procedure

In accordance with Supreme Court Rule 767(h), the hearing and review procedure shall be the same as provided in Supreme Court Rule 753 for disciplinary cases.

(Adopted, effective April 15, 1994.)

RULES 416 through 500 Reserved

Article VII Client Protection Program

RULE 501 Eligible Claims

The Commission may consider a claim if the claimant complies with procedures established by the Commission and if the following conditions exist:

(a) The claimant experienced a loss of money or property, excluding loss of profit, consequential damages, interest, and costs of recovery;

(b) The loss arose out of or during the course of a lawyer-client relationship between the lawyer and the claimant related to a matter in this state, or a fiduciary relationship between the lawyer and the claimant that is related to the practice of law in this state;

(c) The loss was caused by the dishonest conduct of the lawyer, or involved unearned, unrefunded fees paid to a lawyer who later died or was transferred to disability inactive status, and the claim was not based on negligence or malpractice;

(d) There is no reasonably available collateral source for reimbursement to the claimant, such as insurance, surety, bond, or some other fund;

(e) Reasonable efforts have been made by the claimant to exhaust administrative and civil remedies;

(f) The lawyer was licensed to practice law in this state at the time of the events which resulted in the loss or was licensed within three years prior to those events;

(g) The claim was filed within three years after the date the claimant knew or should have known of the loss, or within one year after the date the lawyer was disciplined, died, or was transferred to disability inactive status, whichever is later;

(h) The loss occurred on or after January 1, 1984;

(i) The lawyer has been disciplined by the Supreme Court of Illinois, or has died, or has been transferred to disability inactive status; and

(j) The claimant has cooperated fully with disciplinary and law enforcement officials.

(Adopted, effective March 28, 1994; amended, effective March 31, 1997; amended, effective May 31, 2000; amended February 9, 2015, eff. immediately.)

RULE 502 Excluded Claims

Notwithstanding the provisions of Commission Rule 501, a claim is not eligible for payment to the extent that it involves any one of the following factors:

(a) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of the lawyer(s) causing the losses;

(b) Losses covered by any bond, surety agreement, or insurance contract, to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;

(c) Losses incurred by any financial institution which are recoverable under a bond or an insurance or surety contract;

(d) Losses incurred by any business entity controlled by the lawyer or any person or entity described in Commission Rule 502 (a), (b), or (c);

(e) Losses incurred by any governmental entity or agency.

(Adopted, effective March 28, 1994.)

RULE 503 Claims Payments Discretionary

(a) In cases of extreme hardship or special and unusual circumstances, the Commission may, in its discretion, recognize a claim which would otherwise be excluded under these rules.

(b) In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Commission may, in its discretion, deny the claim.

(Adopted, effective March 28, 1994.)

RULE 504 Form of Claim

The Administrator shall investigate a claim if it is submitted on a form provided by the Commission. The Administrator may, as a matter of discretion, investigate claims which are not filed on the claim form provided by the Commission.

(Adopted, effective March 28, 1994; amended February 9, 2015, eff. immediately.)

RULE 505 Content of Claim Form

(a) The claim form shall require that the claimant provide the following information:

(1) The name, address and telephone number of the claimant;

(2) The name, address and telephone number of the lawyer or lawyers whose conduct caused the loss;

(3) A statement of when the claimant hired the lawyer, the date on which the loss occurred, the date upon which any lawyer-client relationship with the lawyer ended, and the date upon which the claimant discovered the loss;

(4) A detailed description of the events that lead to the loss and the amount of the loss, together with a copy of all documentation which supports the claim;

(5) A description of what the claimant has done to recover the loss, including whether the claimant has sued the lawyer or otherwise made a claim against the lawyer or the lawyer's assets;

(6) A statement of whether the claimant has contacted appropriate criminal authorities regarding prosecution. If so, the statement should include copies of any related materials. If the answer is no, the statement should include an explanation of why such action has not been taken;

(7) A statement of the extent to which the loss has caused the claimant any special hardship;

(8) A statement of the extent to which the claimant has cooperated with disciplinary authorities;

(9) A statement of any relationship between the claimant and the lawyer; and

(10) An agreement to execute any subrogation or like agreements, to the extent that the Client Protection Program makes any payment to the claimant.

(b) The claimant shall sign the claim form.

(Adopted, effective March 28, 1994; amended February 9, 2015, eff. immediately.)

RULE 506 Claims Procedure

If the lawyer whose conduct is the subject of the claim has already been disciplined or transferred to disability inactive status by the Supreme Court of Illinois, or has died, the Administrator shall commence an investigation of the claim. The investigation shall be concluded as soon as is practicable. If the lawyer has not been disciplined or transferred to disability inactive status and has not died, the Administrator shall hold the claim in abeyance, pending conclusion of any proceedings. During the abeyance, the Administrator may gather facts underlying the claim. As part of the investigation, the Administrator shall send a copy of the claim to the lawyer whose conduct is alleged to have caused the loss at his or her last registered or known address and shall request from the lawyer a full statement of the facts related to the claim. The lawyer has a duty to respond to the request and to cooperate with any further requests. The Administrator shall conduct a complete investigation and shall prepare and submit to the Commission a report addressing the factors identified in Commission Rules 501, 502 and 503.

(Amended December 1, 1994, effective immediately; amended February 9, 2015, eff. immediately.)

RULE 507 Determination.

(a) Payment of a claim shall be made only on affirmative vote of four members of the Commission. The decision to pay a claim shall be reflected in an order of the Commission.

(b) In determining the amount of any payment, the Commission may consider:

- (1) Monies available and likely to become available for payment of claims;
- (2) The size and number of claims presented and likely to be presented in the future;
- (3) The amount of a claimant's loss compared with losses sustained by others;
- (4) The comparative hardship suffered by a claimant because of a loss;
- (5) The total amount of losses caused by the conduct of any one lawyer;
- (6) The culpability or negligence of the claimant contributing to the loss;
- (7) The extent to which there is a collateral source for reimbursement to the claimant;
- (8) The effort made by the claimant to exhaust administrative and civil remedies;
- (9) Other factors as appear to be just and proper.

(c) The Commission order shall be filed with the Clerk.

(Amended December 1, 1994, effective immediately; amended February 9, 2015, eff. immediately.)

RULE 508 Request for Reconsideration: Assignment to Panel

The Clerk shall provide a copy of the Commission's order to the claimant and the lawyer who is the subject of the claim. Within 21 days of the mailing of the order, the claimant or the lawyer may request reconsideration of the order by sending such a written request to the Clerk. The request shall state the basis of the request for reconsideration and whether a hearing is requested. If no request is received within the stated time, the order shall become final. If a request is received, the Clerk shall forward the request to the Commission. The Commission may assign the request to a panel designated by the Commission to review the request. The panel shall be composed of two lawyers and one non-lawyer, and may be a panel of the Inquiry or Hearing Panel.

(Amended December 1, 1994, effective immediately.)

RULE 509 Review by Panel

At the Commission's request, the panel shall review the report submitted by the Administrator and the request for reconsideration. The Administrator shall assist the panel. The panel may consider any and all information obtained by the Administrator during the

investigation and may request the Administrator to conduct additional investigation. The panel may convene a hearing at which both the claimant and the lawyer may appear. Hearings shall be informal. The Chair of the panel shall preside at the hearing. The panel shall prepare a report and recommendation to the Commission. The report of the panel shall address those factors identified in Commission Rules 501, 502 and 503.

(Amended December 1, 1994, effective immediately.)

RULE 510 Payment of Claims

The Administrator shall pay claims out of the Client Protection Trust Fund in accordance with an order of the Commission. The maximum payment to any one claimant arising from a claim shall be \$100,000. The Commission shall require as a condition of payment that the claimant execute such instruments, take such action or enter into such agreements as the Commission requires, including assignments, subrogation agreements, and trust agreements. Aggregate payments arising from the conduct of any one lawyer shall not exceed \$1,000,000.

(Adopted, effective March 28, 1994; amended, effective October 15, 1998; amended, effective April 1, 2003; amended December 8, 2006, effective January 31, 2007; amended, effective March 31, 2009; amended February 24, 2014, effective March 20, 2014; amended February 9, 2015, eff. immediately)

RULE 511 Restitution and Subrogation

(a) The Commission may bring such action as it deems advisable to enforce restitution obligations against the lawyer whose conduct gave rise to the payment of a claim.

(b) As a condition of reimbursement, a claimant shall be required to provide the Commission with a transfer of the claimant's rights, to the extent of a claim payment, against the lawyer, the lawyer's legal representative, estate or assigns or any third party or entity who may be liable for the claimant's loss.

(c) Upon commencement of an action by the Commission as subrogee or assignee of a claim, the Administrator shall advise the claimant, who may then join in such action to recover the claimant's unreimbursed losses.

(d) In the event that the claimant commences an action to recover unreimbursed losses against the lawyer or another entity who may be liable for the claimant's loss, the claimant shall be required to notify the Commission of such action.

(e) The claimant shall be required to agree to cooperate in all efforts that the Commission undertakes to achieve restitution for the Disciplinary Fund.

(Adopted, effective March 28, 1994.)

RULE 512 Compensation for Representing Claimants

No lawyer shall accept any payment for representing a claimant in a claim before the Client Protection Program.

(Adopted, effective March 28, 1994; amended February 9, 2015, eff. immediately.)

Article VIII Ethics Inquiry Program

RULE 601 Establishment of Program

There is established under the auspices of the Commission an Ethics Inquiry Program. The Administrator shall employ Ethics Inquiry Counsel, who shall respond to ethics inquiries.

RULE 602 Purpose of Program

The purpose of the program is to provide information to attorneys and other members of the public so that the inquirer may identify and determine the Rules of Conduct which apply to an attorney's actions. The goal of the program is to assist attorneys in conducting themselves within the bounds of the Illinois Rules of Professional Conduct, thereby enhancing the quality of representation provided by Illinois attorneys.

RULE 603 The Ethics Inquiry

Any Illinois attorney or other member of the public may make an ethics inquiry by telephone to the Commission's designated ethics inquiry telephone line. The inquiry may request assistance in identifying an applicable rule of conduct. If the inquiry presents a set of facts, those facts shall be presented in hypothetical format.

RULE 604 Response of Ethics Inquiry Program

Ethics Inquiry Counsel shall provide general information and research assistance regarding ethics issues under Illinois law. Ethics Inquiry Counsel shall not provide legal advice or advisory opinions. Before rendering assistance to an inquirer, the Ethics Inquiry Counsel shall advise each inquirer that only legal research assistance is being furnished, that no legal opinion is being rendered, and that the inquirer is responsible for making his or her own final judgment on the ethical issue presented.

RULE 605 Inadmissibility of Inquiry Communications

Neither the fact that an inquiry has been made nor its content nor the response thereto shall be admissible in any attorney discipline proceeding.

RULE 606 Records; Disclosure

Ethics Inquiry Counsel shall not make or maintain any record of the identity of an inquirer or the substance of a specific inquiry or response. Ethics Inquiry Counsel shall keep records of the number of inquiries and the nature and type of inquiries and responses. Such records shall be used solely to aid the Commission in developing the Ethics Inquiry Program and developing additional educational programs. Such records shall be privileged from disclosure in any attorney disciplinary proceeding.

(Adopted, effective March 31, 1995.)