

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

OPEN SESSION AGENDA

Friday, April 7, 2006
(9:15 am - 5:00 pm)

Saturday, April 8, 2006
(9:00 am - 5:00 pm)

LA–State Bar Office
1149 South Hill Street, Room 723
Los Angeles, CA 90015

[NOTE RE MEETING SITE: For members of the public, the open session of this meeting also can be accessed by video-conference from the State Bar Office in San Francisco at 180 Howard Street, Room 8B. Members of the public who wish to attend this meeting at either site are asked to call Audrey Hollins at 415-538-2167.]

[Chair's note re discussion of action items: Only matters raised by the drafting team, or in an email message sent out no later than March 27, 2006, will be considered at the meeting and, absent a language issue raised by the drafting team or in a timely email message, the language recommended by the drafting team may be deemed approved.]

I. APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE DECEMBER 2, 2005 AND FEBRUARY 3, 2006 MEETINGS

(Draft action summary for the December 2, 2005 and February 3, 2006 meetings to be circulated prior to the April meeting.)

II. REMARKS OF CHAIR

A. Chair's Report

(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

B. Staff's Report

(Staff will report on the activities of COPRAC and the Board of Governors. Rule Drafting Style Booklet enclosed. Members are asked to review the style booklet in preparation for a report from staff.)

III. **MATTERS FOR ACTION** (Name with asterisk is lead drafter, underline indicates a newly added co-drafter.)

*SeLegue

Kehr

Melchior

- A. Consideration of Rule 3-310 [ABA MR 1.7, 1.8, 1.9, 1.10, 1.11]
Avoiding the Representation of Adverse Interests**
[anticipated 1 ½ hour discussion]
(Materials enclosed.) **[pages 1 - 22]**

*Martinez/Tuft

Sapiro

Voogd

- B. Consideration of Rule 2-100 [ABA MR 4.2] Communication With
a Represented Party**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 23 - 42]**

*Foy

Julien

Peck

- C. Report on the Board Referral of Trust and Estates Section
Legislative Proposal 2005-02 (re Impaired Clients) [ABA MR 1.14].**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 43 - 48]**

*Peck

Kehr

Sapiro

- D. Consideration of Rule 4-100 [ABA MR 1.15] Preserving Identity
of Funds and Property of a Client**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 46 - 96]**

*Ruvolo
Julien
SeLegue

- E. Consideration of Rule 3-500 and Rule 3-510 [ABA MR 1.4] Communication; Communication of Settlement Offer**
[anticipated 1/2 hour discussion]
(The codrafters, in consultation with staff and the consultant, handled this item by mail ballot. Materials enclosed.) **[pages 97 - 106]**

*Lamport
Tuft
Voogd

- F. Consideration of Rule 1.8.1 (Rule 3-300). Avoiding Interests Adverse to a Client**
[anticipated 1 hour discussion]
(Materials to be distributed prior to meeting.)

*Kehr
SeLegue
Foy
Melchior

- G. Consideration of Rule 3-700 [ABA MR 1.16] Termination of Employment**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 107 - 114]**

*Tuft
Kehr
Martinez
Peck
Ruvolo

- H. Consideration of Concept of Law Firm Discipline**
[anticipated ½ hour discussion]
(Materials to be distributed prior to meeting.)

*Vapnek,
Ruvolo,
Voogd,

- I. Consideration of Rule 4-200 [ABA MR 1.5] Fees for Legal Services**
[anticipated ½ hour discussion]
(At the discretion of the chair, this item may be postponed to a future meeting.)

IV. Consent Agenda - Tentatively Approved Rules for Public Comment Batch 1

[Note: These are the Batch 1 Public Comment Rules: 1-100, 1-110, 1-120, 1-120X, 1-200, 1-300 (includes: 5.3; 5.5), 1-310 (includes: 5.1; 5.2; 5.4; also covers 1-600), 1-311, 1-400 (includes: 7.1; 7.2; 7.3; 7.4; 7.5), 1-500; 1-700; 1-710; 1-720; 2-200; 3-110; 3-120; 3-200; 3-210; 3-400; 3-500; 3-510 and 5.7.]

IMPORTANT CONSENT AGENDA PROCEDURE: This consent agenda constitutes an assignment to **All Members**. Matters listed on this consent agenda will be deemed adopted for submission to the Board of Governors for official public comment distribution unless one of the following occurs prior to the e-mail comment deadline of **12:00 noon on Monday, March 27, 2006** : (1) an item with an outstanding 10-day ballot process does not result in tentative approval; (2) all of the members of a drafting team submit a joint request, supported by a redraft or written explanation, to take their item off the consent agenda; or (3) written requests, supported by redrafts or written explanations, are received from six members of the Commission on any individual consent item. Consent items that are not deemed adopted will be handled as action items and resolved by a vote taken at the meeting. Deliberation will be limited to the issues identified in the redrafts or explanations that caused the item to be taken off the consent agenda.

(NOTE: Consent agenda items A through E below have been circulated for 10-day mail ballots.)

*Vapnek
Peck
Ruvolo

- A. Proposed Rule 1.1 [Rule 3-110]. Competence**
(Materials enclosed.) **[pages 115 - 126]**

*Vapnek
Kehr
Martinez

- B. Proposed Rule 1.8.8 [Rule 3-400] Limiting Liability to Client**
(Materials enclosed.) **[pages 127- 138]**

*Voogd
Lamport

- C. Proposed Rule 5.3.1 [Rule 1-311]. Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Member**
(Materials enclosed.) **[pages 139 - 146]**

*Tuft
Martinez
Peck

- D. Proposed Rule 5.5 [Rule 1-300]. Unauthorized Practice of Law**
(Materials enclosed.) **[pages 147 - 160]**

*Tuft
Martinez
Peck

- E. Proposed Rule 1.0.1. Law Firm Definition**
(Materials enclosed.) **[pages 161 - 166]**

(NOTE: Consent agenda items F through I below were tentatively approved prior to the Commission's action to use the ABA format and rule numbering system. Codrafters for these items are urged to consider whether the language of these draft rules should be modified, in non-substantive ways, to track a comparable ABA Model Rule.)

*Lamport
Voogd **F. Proposed Rule 8.1.1 [Rule 1-110]. Disciplinary Authority of the State Bar**
(Materials enclosed.) *[pages 167 - 170]*

*Foy,
Sapiro **G. Proposed Rule 8.1 [Rule 1-200]. False Statement Regarding Admission to the State Bar**
(Materials enclosed.) *[pages 171 - 176]*

*Foy
Sapiro **H. Proposed Rule 5.6 [Rule 1-500]. Agreements Restricting a Member's Practice**
(Materials enclosed.) *[pages 177 - 186]*

*Vapnek
Peck
Tuft **I. 1. Proposed Rule 8.4 [Rule 1-120X]. Misconduct**
(Materials enclosed.) *[pages 187 - 206]*

2. Proposed Rule 8.3 [Rule 1-120]. Reporting Professional Misconduct
(Materials enclosed.) *[pages 207 - 214]*

(NOTE: Consent agenda items J through Z below were tentatively approved by completed mail ballots, by votes taken at a meeting, or by consensus determinations.)

*Tuft
Foy
Melchior **J. Proposed Rule 1.2.1 [Rule 3-210]. Scope of Representation**
(Materials enclosed.) *[pages 215 - 222]*

*Ruvolo
Foy
Julien **K. Proposed Rule 1.8.10 [Rule 3-120]. Sexual Relations With Client**
(Materials enclosed.) *[pages 223 - 230]*

*Voogd
Tuft
Ruvolo

- L. Proposed Rule 3.1 [Rule 3-200]. Meritorious Claims and Contentions**
(Materials enclosed.) *[pages 231 - 238]*

*Tuft
Lamport
Julien
Melchior
Ruvolo

- M. Proposed Rule 1.0 [Rule 1-100]. Rules of Professional Conduct, in General**
(Materials enclosed.) *[pages 239 - 246]*

*Tuft
Ruvolo
Vapnek
Mohr

- N. Proposed Rule 5.1 [Rule 1-310X]. Responsibilities of Partners, Managers, and Supervisory Lawyers**
(Materials enclosed.) *[pages 247 - 252]*

*Tuft
Ruvolo
Vapnek
Mohr

- O. Proposed Rule 5.2 [Rule 1-310X]. Responsibilities of Subordinate Lawyer**
(Materials enclosed.) *[pages 253 - 258]*

*Tuft
Martinez
Peck

- P. Proposed Rule 5.3 [Rule 1-300]. Nonlawyer Assistants**
(Materials enclosed.) *[pages 259 - 264]*

*Tuft
Martinez
Peck

- Q. Proposed Rule 5.4 [Rule 1-310X]. Professional Independence of a Lawyer**
(Materials enclosed.) *[pages 265 - 274]*

- *Ruvolo
Mohr **R. Proposed Rule 2.4.2 [Rule 1-700]. Member as Candidate for Judicial Office**
(Materials enclosed.) *[pages 275 - 278]*
- *Ruvolo
Mohr **S. Proposed Rule 2.4.1 [Rule 1-710]. Member as Temporary Judge, Referee, or Court-Appointed Arbitrator**
(Materials enclosed.) *[pages 279 - 282]*
- *Ruvolo
Mohr **T. Proposed Rule 2.4 [Rule 1-720]. Member as Third Party Neutral**
(Materials enclosed.) *[pages 283 - 292]*
- *Mohr
Julien
Ruvolo **U. Proposed Rule 7.1 [Rule 1-400]. Communications Concerning the Availability of Legal Services**
(Materials enclosed.) *[pages 293 - 308]*
- *Mohr
Julien
Ruvolo **V. Proposed Rule 7.2 [Rule 1-400]. Advertising**
(Materials enclosed.) *[pages 309 - 324]*
- *Mohr
Julien
Ruvolo **W. Proposed Rule 7.3 [Rule 1-400]. Direct Contact with Prospective Clients**
(Materials enclosed.) *[pages 325 - 338]*
- *Mohr
Julien
Ruvolo **X. Proposed Rule 7.4 [Rule 1-400]. Communication of Fields of Practice and Specialization**
(Materials enclosed.) *[pages 339 - 344]*
- *Mohr
Julien
Ruvolo **Y. Proposed Rule 7.5 [Rule 1-400]. Firm Names and Letterheads**
(Materials enclosed.) *[pages 345 - 352]*
- *Lamport
Julien
Vapnek
Sapiro **Z. Proposed Rule 1.5.1 [Rule 2-200]. Financial Arrangements Among Lawyers**
(Materials enclosed.) *[pages 353 - 360]*

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

CLOSED SESSION AGENDA*

Friday, April 7, 2006
(9:00 am - 9:15 am)

LA–State Bar Office
1149 South Hill Street, Room 723
Los Angeles, CA 90015

- I. **APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE DECEMBER 2, 2005 AND FEBRUARY 3, 2006 MEETINGS**
(Draft action summary for the December 2, 2005 and February 3, 2006 meetings to be circulated prior to the April meeting.)

- II. **ADVICE OF COUNSEL ON OPEN SESSION AGENDA ITEMS**

- III. **ACTION ITEMS.**
 - A. **Emergency action items, if any.**

* Closed pursuant to Article 3, Section 2, Subdivision (b), Rules Governing Open Meetings, Closed Sessions and Records of the Board of Governors.