

**DATE:** May 16, 2005

**TO:** Members of the Commission for the Revision of the Rules of Professional Conduct

**FROM:** Lauren McCurdy

**SUBJECT:** Agenda for Your Video Conference Meeting on Friday, June 10, 2005

Enclosed, please find the agenda materials for your June 10, 2005 meeting.

The video conference meeting is scheduled as follows:

**Friday, June 10, 2005**  
(9:00 a.m. – 5:00 p.m.)

SF–State Bar Office  
180 Howard Street, Room 8-B  
San Francisco, CA 94105

*and*

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

**IMPORTANT NOTE: READ THE AGENDA DOCUMENT CAREFULLY. SOME ITEMS THAT HAVE BEEN PLACED ON THE AGENDA WILL BE DEEMED ADOPTED BY THE COMMISSION ABSENT A WRITTEN OBJECTION RECEIVED BY JUNE 1.**

***ATTENDANCE AND ON-TIME ARRIVAL:*** To ensure a quorum, if you are unable to attend in-person or if you are running late, please contact staff to report your status and to facilitate potential arrangements to participate by telephone.

/Imm  
enclosures  
cc: Marie Moffat

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

**OPEN SESSION AGENDA**

**Friday, June 10, 2005**  
(9:15 am - 12:30 and 1:00 - 5:00 pm)

**VIDEO-CONFERENCE MEETING**

**SF–State Bar Office**  
**180 Howard Street, Room 8-B**  
**San Francisco, CA 94105**

**LA–State Bar Office**  
**1149 So. Hill Street, Room 723**  
**Los Angeles, CA 90015**

*[NOTE RE MEETING SITE: For members of the public, this meeting can be accessed by video-conference from both the State Bar Office in San Francisco at 180 Howard Street, Room 8B and the State Bar Office in Los Angeles, 1149 So. Hill St., Rm. 923. Members of the public who wish to attend this meeting are asked to call Audrey Hollins at 415-538-2167.]*

**I. APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE NOVEMBER 19, 2004, DECEMBER 10, 2004 AND APRIL 1-2, 2005, MEETINGS**

(Draft action summaries for the November 19, 2004, December 10, 2004, and April 1-2, 2005 meetings to be circulated prior to the June 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. In addition, enclosed are: 1) summary of the evaluation forms submitted for the April 16<sup>th</sup> Annual Statewide Ethics Symposium; and 2) summary of the responses to the Rules Revision Commission Panel survey taken at the April 16<sup>th</sup> Annual Statewide Ethics Symposium.) **[pages 1 – 6]**

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

\*Lamport  
Foy  
Melchior  
Mohr  
Voogd

- A. **Consideration of Rule 3-600 [ABA MR 1.13] (Organization as Client)**  
[anticipated ½ hour discussion]  
(Mr. Lamport has promised to disseminate the materials for this item by e-mail no later than Monday, May 16th. **IMPORTANT DEADLINE:** The Chair may deem rule 3-600 as circulated by e-mail to be adopted by the Commission absent written objection, together with an explanation of the objection, by **June 1.**)

\*Peck  
Martinez

- B. **Consideration of Rule 2-400. Prohibited Discriminatory Conduct in a Law Practice**  
[anticipated ½ hour discussion]  
(Matter carried over from April 1-2, 2005 meeting. Previously distributed materials enclosed. Additional materials to be circulated by codrafters prior to meeting.) **[pages 7 – 42]**

\*Melchior  
Martinez  
Sapiro

- C. **Consideration of Rule 2-300 [ABA MR 1.17] Sale or Purchase of a Law Practice of a Member, Living or Deceased**  
[anticipated 1 hour discussion]  
(Matter carried over from April 1-2, 2005 meeting. Previously distributed materials enclosed.) **[pages 43 – 70]**

\*Martinez  
Sapiro  
Voogd

- D. **Consideration of Rule 2-100 [ABA MR 4.2] Communication With a Represented Party**  
[anticipated 1 hour discussion]  
(Matter carried over from April 1-2, 2005 meeting. Revised materials from codrafters enclosed. In addition, see e-mail message from Randy Difuntorum providing a recent 2-100 case.) **[pages 71 – 100]**

\*Tuft  
Martinez  
Peck

- E. Consideration of Rule 1-300 [ABA MR 5.5] (Unauthorized Practice of Law; Multijurisdictional Practice of Law) (Including consideration of discussion section re “definition of the practice of law”)**  
[anticipated 1 hour discussion]  
(Materials enclosed. **IMPORTANT DEADLINE:** The Chair may deem rule 1-300 as prepared by Kevin Mohr and set forth herein to be adopted by the Commission absent written objection, together with an explanation of the objection, by **June 1**. Matter carried over from April 1-2, 2005 meeting.) **[pages 101 – 116]**

\*Foy  
Julien  
Peck

- F. Report on the Board Referral of Trust and Estates Section Legislative Proposal 2005-02 (re Impaired Clients) [ABA MR 1.14].**  
[anticipated ½ hour discussion]  
(The codrafters will be conducting a video-conference meeting on May 26, 2005. The materials for that meeting are enclosed. Following the May 26<sup>th</sup> meeting, a report will be distributed.) **[pages 117 – 154]**

\*Mohr  
SeLegue

- G. Preliminary Report on Rule 3-100. Confidential Information of a Client. [ABA MR 1.6].**  
[anticipated 15 minute discussion]  
(See Agenda Item III.F. Codrafters will provide an oral report on rule 3-100 issues identified during the MR 1.14 codrafter video conference meeting on May 26, 2005.)

\*Voogd  
Tuft  
Ruvolo  
[Kehr]  
[Peck]

- H. Consideration of Rule 3-200 [ABA MR 3.1 and 3.2]. Prohibited Objectives of Employment**  
[anticipated ½ hour discussion]  
(Materials enclosed.) **[pages 155 – 160]**

- \*Lamport  
Julien  
Vapnek  
[Sapiro]
- I. Consideration of Rule 2-200. Financial Arrangements Among Lawyers**  
[anticipated ½ hour discussion]  
(Mr. Lamport has promised to disseminate the materials for this item by e-mail no later than Monday, May 16th.)
- \*Kehr  
Sapiro  
SeLegue
- J. Consideration of ABA MR 5.7. Responsibilities Regarding Law-Related Services (no California counterpart)**  
[anticipated ½ hour discussion]  
(Materials enclosed.) **[pages 161 – 172]**
- \*SeLegue  
Kehr  
Melchior
- K. Consideration of Rule 3-310 [ABA MR 1.7, 1.8, 1.9, 1.10, 1.11] Avoiding the Representation of Adverse Interests**  
[anticipated ½ hour discussion]  
(Materials enclosed.) **[pages 173 – 184]**
- \*Melchior  
Julien  
Voogd
- L. Consideration of Rule 3-320 Relationship with Other Party’s Lawyer**  
[anticipated ½ hour discussion]  
(Materials enclosed. **IMPORTANT DEADLINE:** The Chair may deem 3-320 as prepared by Kevin Mohr and set forth herein to be adopted by the Commission, subject to any issue noted by Kevin, absent written objection, together with an explanation of the objection, by **June 1**. The lead drafter has expressed approval of the draft prepared by Kevin Mohr.) **[pages 185 – 192]**
- \*Tuft  
Lamport  
Julien  
Melchior  
Ruvolo
- M. Consideration of Rule 1-100. Rules of Professional Conduct, in General**  
[anticipated ½ hour discussion]  
(Codrafters to circulate materials prior to meeting.)

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

**PROPOSED ASSIGNMENTS/AGENDA**

**CLOSED SESSION\***

Friday, June 10, 2005  
(9:00 a.m - 9:15 a.m.)

**VIDEO-CONFERENCE MEETING**

SF–State Bar Office  
180 Howard Street, Room 8-B  
San Francisco, CA 94105

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

**I. APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE NOVEMBER 19, 2004, DECEMBER 10, 2004 AND APRIL 1-2, 2005, MEETINGS**

\_\_\_\_\_ (Draft action summaries for the November 19, 2004, December 10, 2004, and April 1-2, 2005 meetings to be circulated prior to the June 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.