

EXHIBIT ONE

beneficiary or otherwise, either before or after the allowance of a claim. The determination of the Commission shall be final and shall not be subject to judicial review.

(d) The Commission shall allocate on an annual basis the amount of money in the Disciplinary Fund which may be used to pay claims. The Commission shall establish by rule the maximum amount which any one claimant may recover from the program and may establish the aggregate maximum which may be recovered because of the conduct of any one attorney.

(e) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution. Disciplinary orders imposing suspension or probation shall include a provision requiring the disciplined attorney to reimburse the Disciplinary Fund for any Client Protection payments arising from his or her conduct prior to the termination of the period of suspension or probation. Prior to filing a petition for reinstatement, a petitioner shall reimburse the Disciplinary Fund for all Client Protection payments arising from petitioner's conduct. The Petition must be accompanied by a statement from the Administrator indicating that all such payments have been made.

(f) The Commission may make rules related to the investigation and consideration of a Client Protection claim. (Adopted, effective March 28, 1994.)

SUPREME COURT OF ILLINOIS RULES OF PROFESSIONAL CONDUCT ARTICLE VIII.

Preamble

The practice of law is a public trust. Lawyers are the trustees of the system by which citizens resolve disputes among themselves, punish and deter crime, and determine their relative rights and responsibilities toward each other and their government. Lawyers therefore are responsible for the character, competence and integrity of the persons whom they assist in joining their profession; for assuring access to that system through the availability of competent legal counsel; for maintaining public confidence in the system of justice by acting competently and with loyalty to the best interests of their clients; by working to improve that system to meet the challenges of a rapidly changing society; and by defending the integrity of the judicial system against those who would corrupt, abuse or defraud it.

To achieve these ends the practice of law is regulated by the following rules. Violation of these rules is grounds for discipline. No set of prohibitions, however, can adequately articulate the positive values or goals sought to be advanced by those prohibitions. This preamble therefore seeks to articulate those values in much the same way as did the former canons set forth in the Illinois Code of Professional Responsibility. Lawyers seeking to conform their conduct to the requirements of these rules should look to the values described in this preamble for guidance in interpreting the difficult issues which may arise under the rules.

The policies which underlie the various rules may, under certain circumstances, be in some tension with each other. Wherever feasible, the rules themselves seek to resolve such conflicts with clear statements of duty. For example, a lawyer must disclose, even in breach of a client confidence, a client's intent to commit a crime involving a serious risk of bodily harm. In other cases, lawyers must carefully weigh conflicting values, and make decisions, at the peril of violating one or more of the following rules. Lawyers are trained to make just such decisions, however, and should not shrink from the task. To reach correct

ethical decisions, lawyers must be sensitive to the duties imposed by these rules and, whenever practical, should discuss particularly difficult issues with their peers.

Timely, affordable counsel is essential if disputes are to be avoided and, when necessary, resolved. Basic rights have little meaning without access to the judicial system which vindicates them. Effective access to that system often requires the assistance of counsel.

It is the responsibility of those licensed as officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available. It is the responsibility of those who manage law firms to create an environment that is hospitable to the rendering of a reasonable amount of uncompensated service by lawyers practicing in that firm.

Service in the public interest may take many forms. These include but are not limited to pro bono representation of persons unable to pay for legal services and assistance in the organized bar's efforts at law reform. An individual lawyer's efforts in these areas is evidence of the lawyer's good character and fitness to practice law, and the efforts of the bar as a whole are essential to the bar's maintenance of professionalism.

The absence from the proposed new rules of ABA Model Rule 6.1 regarding *pro bono* and public service therefore should not be interpreted as limiting the responsibility of attorneys to render uncompensated service in the public interest. Rather, the rationale for the absence of ABA Model Rule 6.1 is that this concept is not appropriate for a disciplinary code, because an appropriate disciplinary standard regarding *pro bono* and public service is difficult, if not impossible, to articulate. That ABA Model Rule 6.1 itself uses the word "should" instead of "shall" in describing this duty reflects the uncertainty of the ABA on this issue.

The quality of the legal professional can be no better than that of its members. Lawyers must exercise good judgment and candor in supporting applicants for membership in the bar.

Lawyers also must assist in the policing of lawyer misconduct. The vigilance of the bar in preventing and, where required, reporting misconduct can be a formidable deterrent to such misconduct, and a key to maintaining public confidence in the integrity of the profession as a whole in the face of the egregious misconduct of a few.

Legal services are not a commodity. Rather, they are the result of the efforts, training, judgment and experience of the members of a learned profession. These rules reflect the sensitive task of striking a balance between making available useful information regarding the availability and merits of lawyers and the need to protect the public against deceptive or overreaching practices. All communications with clients and potential clients should be consistent with these values.

The lawyer-client relationship is one of trust and confidence. Such confidence only can be maintained if the lawyer acts competently and zealously pursues the client's interests within the bounds of the law. "Zealously" does not mean mindlessly or unfairly or oppressively. Rather, it is the duty of all lawyers to seek resolution of disputes at the least cost in time, expense and trauma to all parties and to the courts.

Terminology

"**Belief**" or "**believes**" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

"**Confidence**" denotes information protected by the lawyer-client privilege under applicable law.

"**Contingent fee agreement**" denotes an agreement for the provision of legal services by a lawyer under which the amount of the lawyer's compensation is contingent in whole or in part upon

the successful completion of the subject matter of the agreement, regardless of whether the fee is established by formula or is a fixed amount.

"**Disclose**" or "**disclosure**" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.

"**Firm**" or "**law firm**" denotes a lawyer or lawyers engaged in the private practice of law in a partnership, professional corporation, or other entity or in the legal department of a corporation, legal services organization or other entity.

"**Fraud**" or "**fraudulent**" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information.

"**Knowingly**" "**known**" or "**knows**" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"**Partner**" denotes a lawyer who is a member of a partnership, or a shareholder or officer in a law firm organized as a professional corporation.

"**Person**" denotes natural persons, partnerships, business corporations, not-for-profit corporations, public and quasi public corporations, municipal corporations, State and Federal governmental bodies and agencies, or any other type of lawfully existing entity.

"**Reasonable**" or "**reasonably**" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

"**Reasonable belief**" or "**reasonably believes**" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

"**Reasonably should know**" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

"**Secret**" denotes information gained in the professional relationship, that the client has requested be held inviolate or the revelation of which would be embarrassing to or would likely be detrimental to the client.

"**Substantial**" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

RULE 1.1 Competence

(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation.

(b) A lawyer shall not represent a client in a legal matter in which the lawyer knows or reasonably should know that the lawyer is not competent to provide representation, without the association of another lawyer who is competent to provide such representation.

(c) After accepting employment on behalf of a client, a lawyer shall not thereafter delegate to another lawyer not in the lawyer's firm the responsibility for performing or completing that employment, without the client's consent.

Adopted February 8, 1990, effective August 1, 1990.

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after disclosure by the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including

representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the objectives of the representation if the client consents after disclosure.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good-faith effort to determine the validity, scope, meaning or application of the law.

(e) A lawyer shall not present, participate in presenting, or threaten to present criminal charges or professional disciplinary actions to obtain an advantage in a civil matter.

(f) In representation of a client, a lawyer shall not:

(1) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or reasonably should know that such action would serve merely to harass or maliciously injure another;

(2) advance a claim or defense the lawyer knows is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by a good-faith argument for an extension, modification, or reversal of existing law; or

(3) fail to disclose that which the lawyer is required by law to reveal.

(g) A lawyer who knows a client has, in the course of representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal, except when the information is protected as a privileged communication.

(h) A lawyer who knows that a person other than the client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

(i) When a lawyer knows that a client expects assistance not permitted by these Rules or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

Adopted February 8, 1990; effective August 1, 1990.

RULE 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Adopted February 8, 1990; effective August 1, 1990.

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Adopted February 8, 1990; effective August 1, 1990.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;