

Board of Professional Responsibility



Ethics Workshop

When to Say No: Cannabis, Clients & the Courts

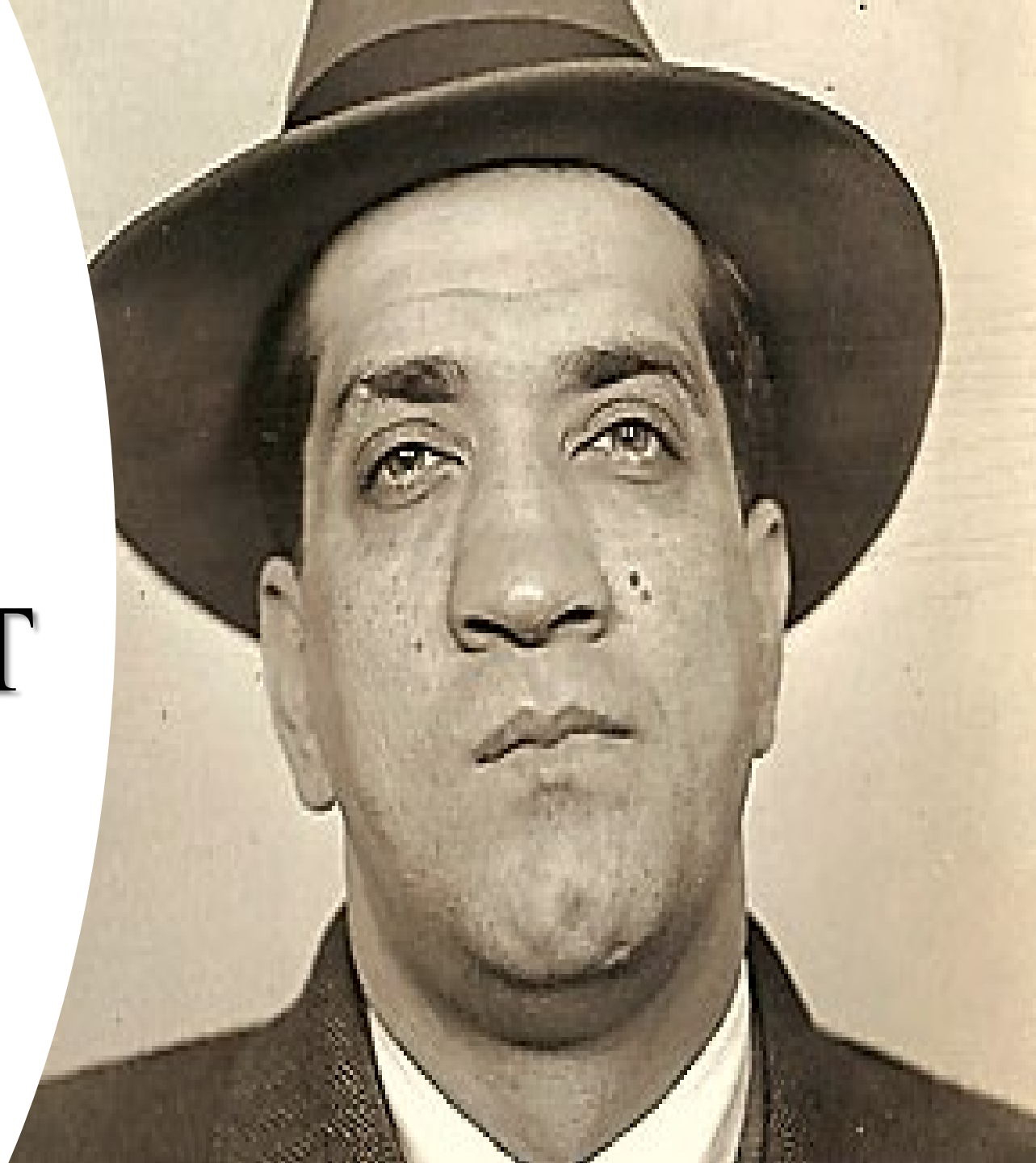
Tennessee Board of
Professional Responsibility
November 3, 2023

James J. Grogan
Loyola University of Chicago
School of Law



JUST SAY NO

YOUR
CLIENT













Masks > Adult Masks

Full Head Mask

New

Accessories

h Street 4 Mask \$59.99

ADD

h Street Freddy \$159.99

ADD

ueger Makeup Kit \$9.99

ADD

tany Mask \$24.00

~~\$44.99~~ \$39.99

or 4 interest-free payments of \$10.00 with

SALE - SAVE 11%

Quantity 1

Size Standard - \$39.99

ADD TO CART

SAVE FOR LATER



YOUTH TEEBALL
GENUINE
LOUISVILLE SLUGGER

THE LUISVILLE
SLUGGER





Tenn. Code Ann. § 39-13-102

39-13-102. Aggravated assault.

(a)

(1) A person commits **aggravated assault** who:

(A) Intentionally or knowingly commits an **assault** as defined in § 39-13-101, and the **assault**:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another;
- (iii) Involved the use or display of a deadly weapon; or
- (iv) Involved strangulation or attempted strangulation; or

(B) Recklessly commits an **assault** as defined in § 39-13-101(a)(1), and the **assault**:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another; or
- (iii) Involved the use or display of a deadly weapon.

Rule 1.4: Communications



(a) A lawyer shall:

* * *

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

Tennessee Rules of Professional Conduct

RULE 1.4: COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in RPC 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

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



- Client hires lawyer to obtain deceased husband's pension benefits from German government;
- Lawyer prepares application stating that client had not remarried;
- Shortly thereafter, Lawyer learns that client had, in fact, remarried;
- Instead of correcting mistake, Lawyer sends uncorrected application to client and requests she mail it in herself. His cover letter says:



“I am asking that you mail this in on your own since I am aware that there is a misrepresentation on it in the answer to A7. Accordingly, I feel it would be in my best interests not to get further involved in this matter.”

Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(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.

Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(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.

2023 EDITION

Tennessee Rules of Professional Conduct

With all amendments in effect as of and through November 30, 2022.



"REEFER MADNESS"

Formerly TELL YOUR CHILDREN

AN GANDY PRODUCTION

Copyrighted

Up in Smoke or Down in Flames?

A Florida Lawyer's Legal and Ethical Risks in

in which they have limited insurance protection. Until federal law is changed, representing clients in the legal marijuana market may not be worth the risk. □

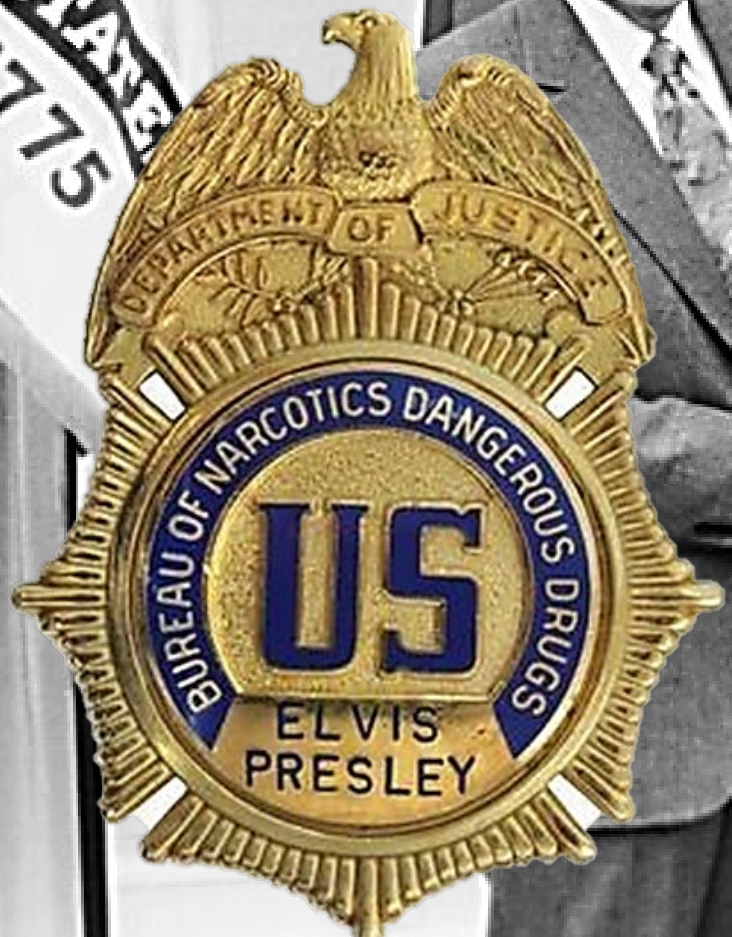
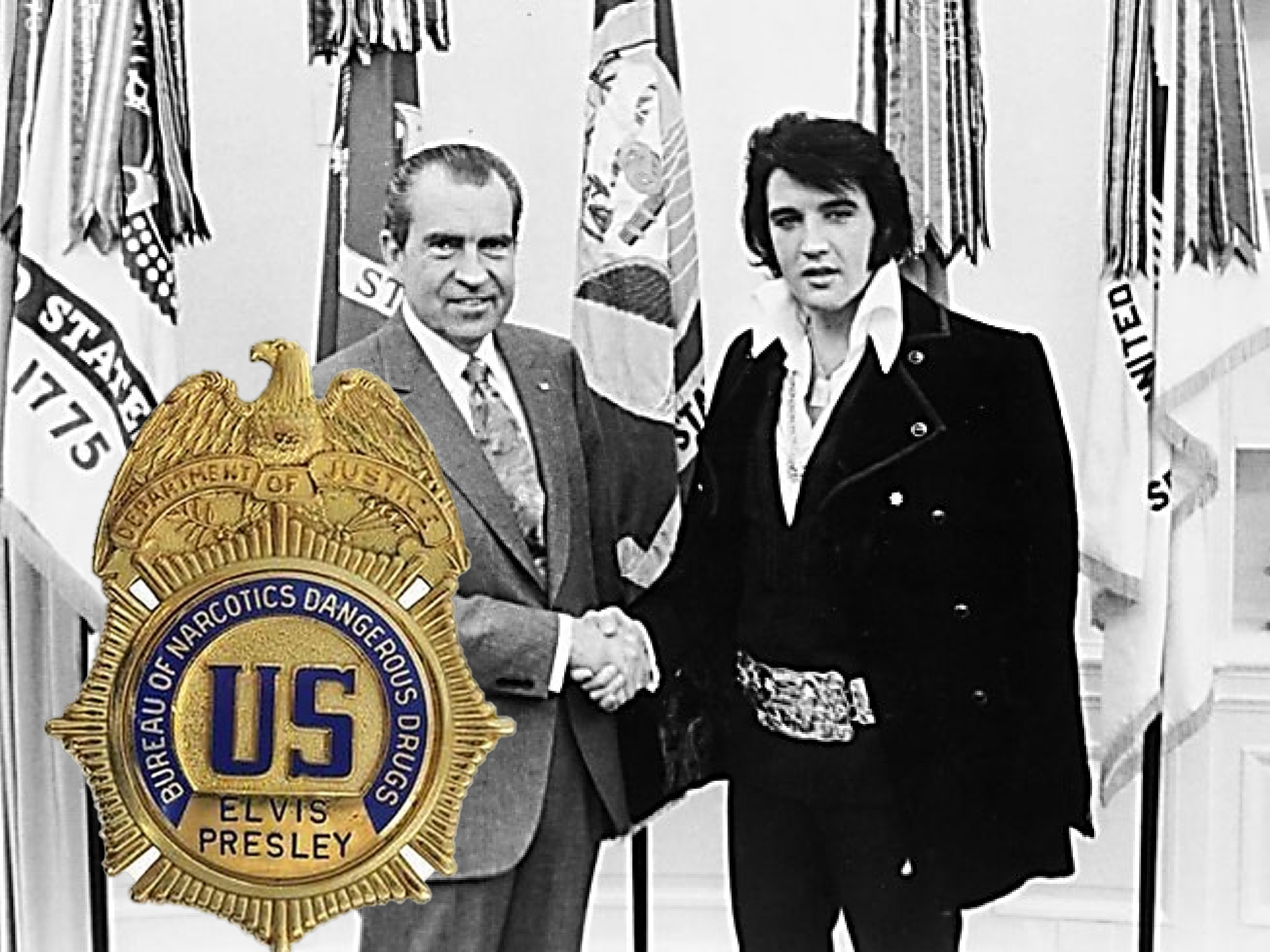
October 27, 1970
[H. R. 18583]

AN ACT

To amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Comprehensive
Drug Abuse Pre-
vention and Con-
trol Act of 1970.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Drug Abuse Prevention and Control Act of 1970".



The Federal Controlled Substances Act

(Slide Thanks to William Bogot, Fox Rothschild LLP)

- **The Controlled Substances Act (“CSA”), Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, is the legal foundation of the federal government’s fight against the abuse of illegal drugs. 21 U.S.C. §§ 801 et seq. Cannabis is classified as a Schedule 1 controlled substance under the CSA. As such, cannabis is considered to have a high potential for abuse. 21 U.S.C. § 812. Under federal law, it is illegal to to posses, manufacture, distribute, or dispense cannabis, or conspire to do so. 21 U.S.C. §§ 841(a)(1), 846.**
- **Although many members of Congress are ready to reclassify cannabis, until such legislation is passed, the possession, sale and distribution of cannabis remains a crime under the CSA. Notwithstanding state laws to the contrary, individuals who violate the CSA are subject to federal criminal prosecution, and lawyers who assist them risk conspiring to violate federal law.**

CURRENT DEVELOPMENTS



NATIONAL ORGANIZATION OF BAR COUNSEL
AUSTIN, TEXAS
FEBRUARY 13, 2020

client's grandson to sign the client's name to a release and submitted it to the insurance company.

In re David J. Furtado, D2019-49 (USPTO, Sept. 20, 2019). Furtado, who was licensed to practice in Colorado, entered into a settlement agreement to be publicly censured before the United States Patent and Trademark Office, for violating his duty of candor to a third party banking institution. Furtado served as general counsel for two medical marijuana dispensaries. In 2013, Furtado agreed to assist in tracking and accounting the dispensaries' funds earmarked for taxes and bills. Furtado arranged to open two new COLTAF accounts with Wells Fargo bank under his own name. Wells Fargo did not allow entities that indicated they were marijuana-related businesses to open accounts. Respondent was aware of Wells Fargo's policy but failed to inform the bank that the COLTAF accounts were opened in order to pay the bills for two medical marijuana dispensaries.

In the Matter of Erik A. Garcia, No. 2016-07643 (NY 2nd Dept. July 31, 2019). Garcia was representing an LLC owned by his mother in a dispute with a neighboring coop. The Coop filed a motion to gain access to the LLC property. The attorney for the Coop had sent Garcia

Midyear Meeting | February 12 - 17, 2020



AMERICAN **BAR** ASSOCIATION

JW Marriott Austin | 110 E. 2nd Street | Austin, TX

A stylized illustration of the Austin skyline with a large orange banner in the foreground that reads 'AUSTIN' in white, serif capital letters. The banner is supported by two brown posts. The background shows a blue sky and green grass.

AUSTIN



BY MATT REYNOLDS

FEBRUARY 17, 2020, 2:48 PM CST

ABA MIDYEAR MEETING

ABA House of Delegates urges legislation protecting marijuana lawyers and banks

BY MATT REYNOLDS

The ABA House of Delegates adopted two resolutions Monday urging federal legislation to shield lawyers and banks from criminal liability for providing services to state-legalized marijuana businesses.

Both resolutions were sponsored by the Tort Trial and Insurance Practice Section.

Under Resolution 103B, the ABA will lobby Congress for changes to federal laws so that lawyers do not face the threat of criminal charges when they represent clients in states that have legalized marijuana.

REVISED 103B

ADOPTED AS REVISED

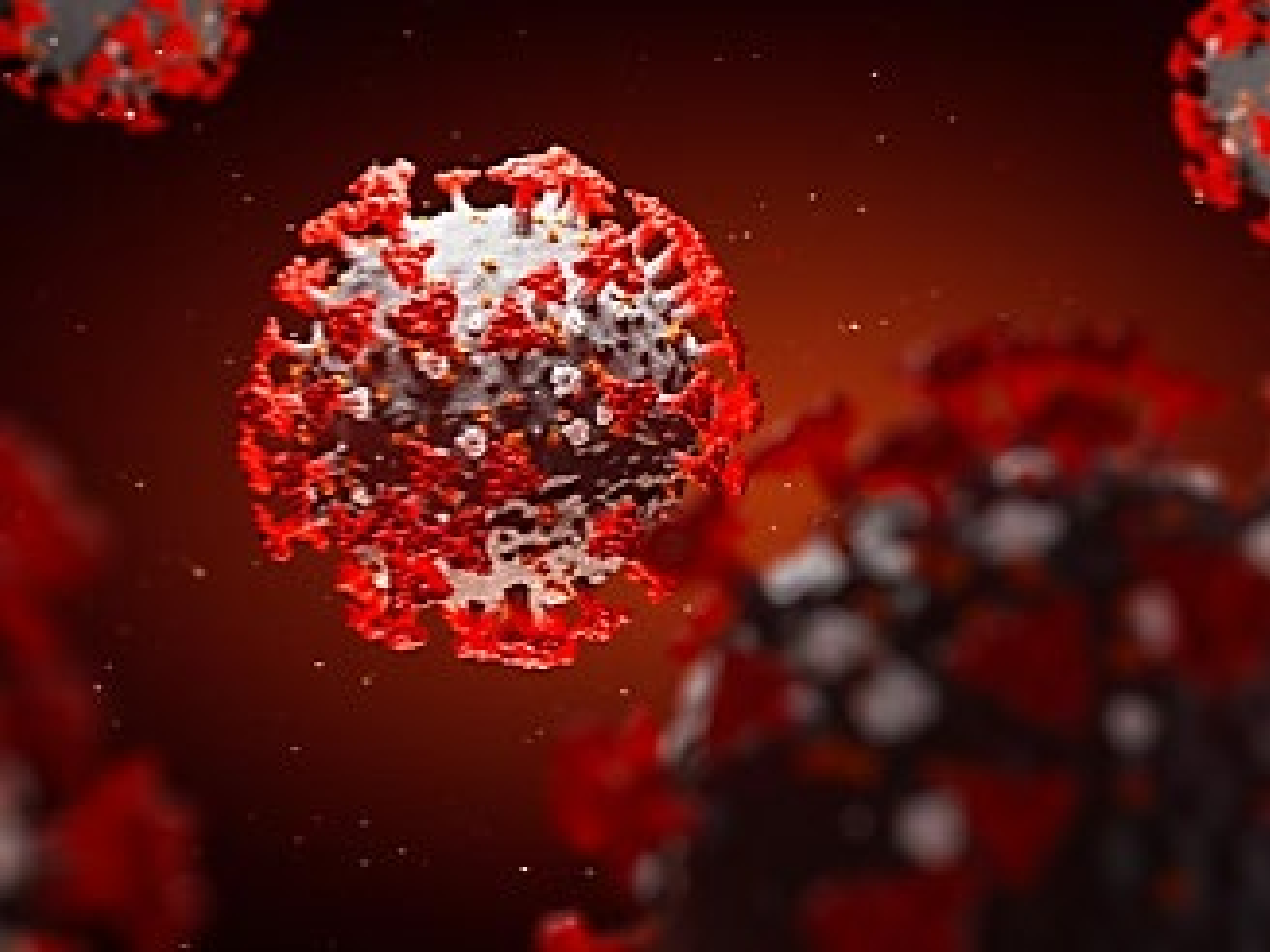
RESOLUTION

1 RESOLVED, That the American Bar Association urges Congress
2 to enact legislation to clarify and explicitly ensure that it ~~shall~~does
3 not constitute a violation of federal law ~~crime~~ for lawyers, acting in
4 accord ~~consistent~~ with state, territorial, and tribal ethical rules on
5 lawyers' professional conduct, to provide legal advice and services
6 to clients regarding matters involving marijuana-related activities
7 that are in compliance with state, territorial, and tribal law.

RESOLUTION

1 RESOLVED, That the American Bar Association urges Congress
2 to enact legislation to clarify and ensure that it shall not constitute
3 a federal crime for banking and financial institutions to provide
4 services to businesses and individuals, including attorneys, who
5 receive compensation from the sale of state-legalized cannabis or
6 who provide services to cannabis-related legitimate business
7 acting in accordance with state, territorial, and tribal laws; and

8 FURTHER RESOLVED, That the American Bar Association urges
9 that such legislation should clarify that the proceeds from a
10 transaction involving activities of a legitimate cannabis-related
11 business or service provider shall not be considered proceeds from
12 an unlawful activity solely because the transaction involves
13 proceeds from a legitimate cannabis-related business or service
14 provider, or because the transaction involves proceeds from
15 legitimate cannabis-related activities.





2021 NOBC Virtual Mid-Year Meeting

FEBRUARY 10-12, 2021



Ethics Opinion 2020-07 (South Dakota, January 2021). Asked whether a South Dakota lawyer may ethically counsel, advise, provide legal services to, or represent a marijuana cultivator, processor, or seller when the sale of marijuana is legal under South Dakota law but illegal under federal law, this ethics opinion answers no, citing a violation of rule 1.2(d). “Rule 1.2(d) does not distinguish between client conduct that is illegal under South Dakota law and client conduct that is illegal only under federal law. It applies to any illegal client conduct. Consequently, Lawyer may not ethically provide legal services to assist a client in establishing, licensing, or otherwise operating a marijuana business. Lawyer may only advise a client considering this course of action about the potential legal consequences of doing so, under either state or federal law, or assist the client in making a good faith effort to determine the validity, scope, meaning, or application of the relevant state and federal law.”

Ethics Opinion 2020-07 (South Dakota, January 2021) asked whether a South Dakota lawyer may ethically counsel a client, provide legal services to, or represent a marijuana consumer, processor, or seller when the sale of marijuana is legal under South Dakota law but illegal under federal law. The ethics opinion answers no, citing a violation of rule 1.2(d). "Rule 1.2(d) does not distinguish between client conduct that is illegal under South Dakota law and client conduct that is illegal only under federal law. It applies to any illegal client conduct. Consequently, Lawyer may not ethically provide legal services to assist a client in establishing, licensing, or otherwise operating a marijuana business. Lawyer may, however, advise a client considering this course of action about the potential legal consequences of doing so under either state or federal law, or assist the client in making a good faith effort to determine the validity, scope, meaning, or application of the relevant state and federal law."

Beware! Young and Old—People in
All Walks of Life!

This  may be handed you





by the friendly stranger. It contains the Killer Drug
“Marihuana”—a powerful narcotic in which lurks
Murder! Insanity! Death!



Cannabis Sativa, known also as Marihuana

WARNING!

Dope peddlers are shrewd! They may
put some of this drug in the  or
in the  or in the tobacco cigarette.

WRITE FOR DETAILED INFORMATION, ENCLOSED 12 CENTS IN POSTAGE—MAILING COST

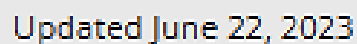
Address: THE INTER-STATE NARCOTIC ASSOCIATION

(Incorporated not for profit)

53 W. Jackson Blvd.

Chicago, Illinois, U. S. A.







H.R. 3884, S. 2227 – Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2019

House Sponsor: Rep. Jerry Nadler (D-NY); 120 cosponsors

Senate Sponsor: Sen. Kamala Harris (D-CA); 7 cosponsors

Purpose: This legislation would federally decriminalize and deschedule cannabis, thus allowing states to set their own policies. It also contains strong social equity provisions with an emphasis on restorative justice for communities most impacted by cannabis prohibition.

Status: On December 4, 2020, the U.S. House of Representatives voted in favor of the MORE Act in a 228-164 vote. This vote marked the first time in half a century that a chamber of Congress voted on a bill to end the federal prohibition of marijuana. The bill now heads to the Senate.

Democratic senators will push to pass pot reform bill this year

PUBLISHED MON, FEB 1 2021•5:02 PM EST | UPDATED MON, FEB 1 2021•6:58 PM EST

Christian Nunley
@CNUNLEY7

SHARE    


KEY POINTS

- Senate Majority Leader Chuck Schumer and two other Democratic senators said that they will push to pass this year sweeping legislation that would end the federal prohibition on marijuana.
- Pot has been legalized to some degree by many states. “The War on Drugs has been a war on people — particularly people of color,” said a statement issued by Schumer, of New York, and Sens. Cory Booker, of New Jersey, and Ron Wyden, of Oregon.

Bill To Federally Legalize Marijuana Reintroduced In Congress As Senate Prepares Separate Measure



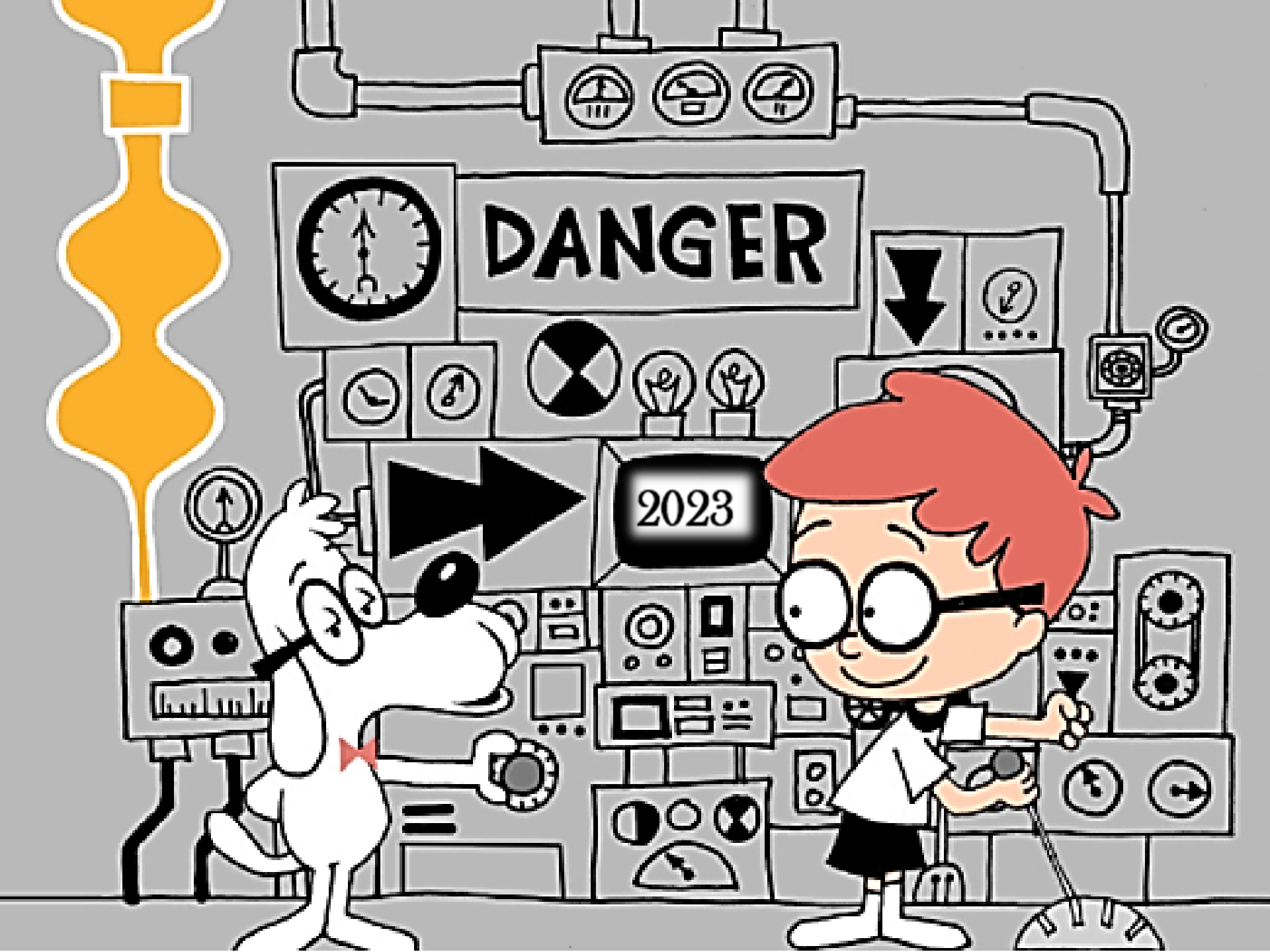
Published 2 weeks ago on May 28, 2021

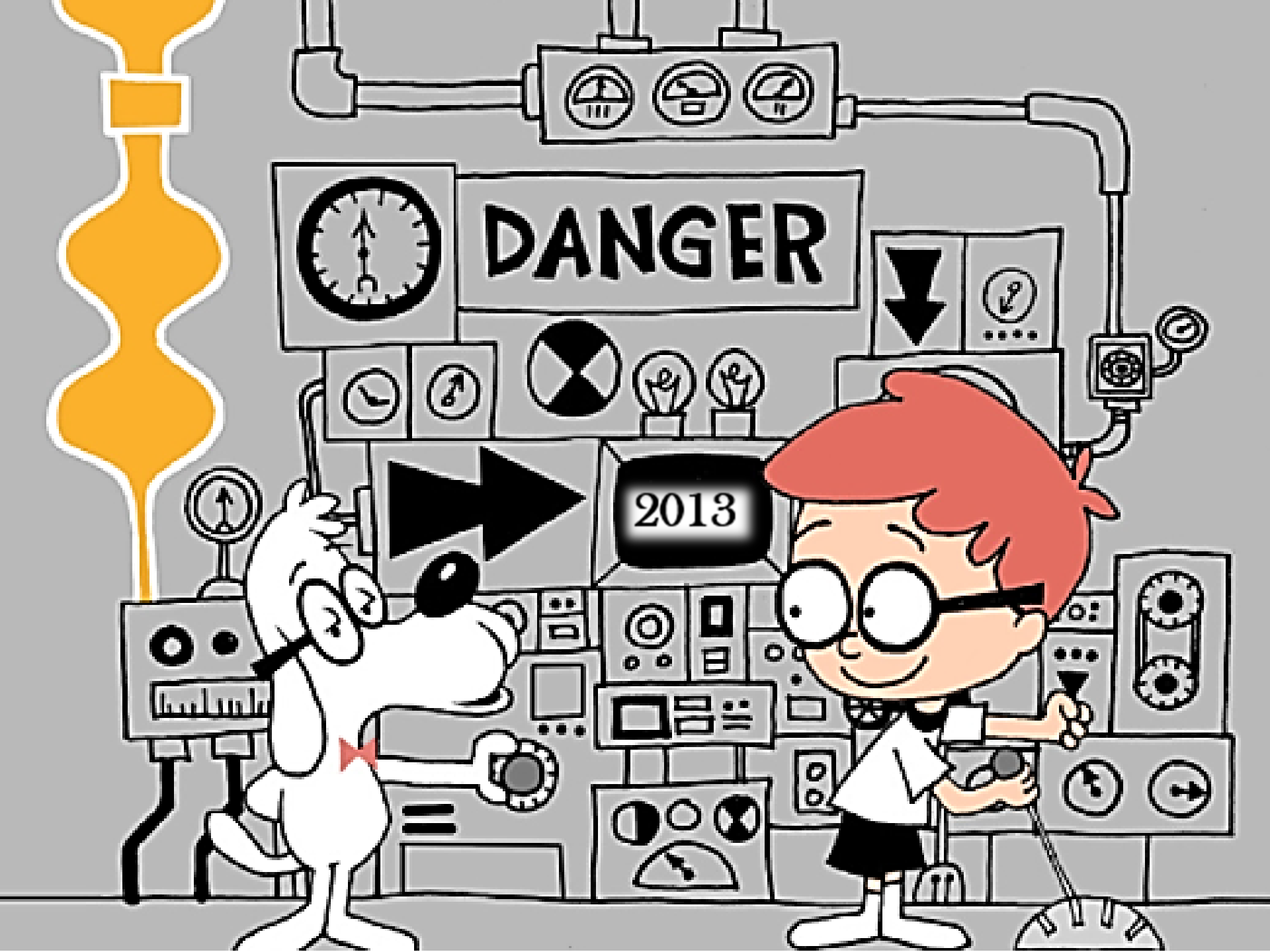
By Kyle Jaeger 

A bill to federally legalize marijuana and promote social equity in the industry was reintroduced in the House on Friday.

The legislation, sponsored by Judiciary Committee Chairman Jerrold Nadler (D-NY), was filed with a number of changes compared to the version that was approved by the chamber last year.

The bill—which would remove marijuana from the Controlled Substances Act (CSA), allow people with cannabis convictions to have their records expunged and create a federal tax on









White Sox Could Consider Move to Nashville, per Report

MIKE MCDANIEL • AUG 22, 2023

The A's are moving from Oakland to Las Vegas after finding themselves unable to resolve a stadium lease issue with the city. Could the **White Sox** be the next major league team to relocate? It's possible, according to a report from Greg Hinz of *Crain's Chicago Business*.

With the lease set to expire in six years, team majority owner Jerry Reinsdorf is considering moving the organization from Guaranteed Rate Field in the South Side neighborhood of Bridgeport. A move to Nashville is among the options for the team.

1901

The Cole Memorandum



U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

Cole's '8' Federal Enforcement Priorities

- Distribution of Marijuana to Minors;
- Revenue Used to Fund Criminal Enterprises, Gangs, Cartels;
- State-Authorized Activity Used to Cover Other Drug Trafficking and Illegal Activity;
- Diversion from States Where Legal to Other States;
- Exacerbation of Public Health Issues;
- Violence in Cultivation and Distribution;
- Cultivation on Public Lands; and
- Possession or Use on Federal Property.

COLE WARNINGS

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the

"All The News
That's Got Our Bent"

The New York Times

LATE CITY EDITION

Weather: Cloudy, rain likely today
and tonight. Cloudy, cool tomorrow.
Temp. range: today 46-60; Tuesday
48-61. Full U.S. report on Page B1.

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NEW YORK, WEDNESDAY, NOVEMBER 9, 2016

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15 CENTS

TRUMP WINS IN LANDSLIDE

VOWS IMMEDIATE ACTION ON EXECUTIVE ORDERS

HILLARY CLINTON TO RETIRE: "EXHAUSTED" FINANCIALLY, EMOTIONALLY, SAYS BILL

By EMMA WRAITH

WASHINGTON — Having once seemed so preordained it was likened to a coronation, the candidacy of Hillary Rodham Clinton, the nation's would-be first female president, came to a sputtering end yesterday with donors and party leadership spurring openly in the wake of Tuesday's crushing defeat, unable to fathom what went wrong — again.

Reports of grotesque overbidding, internal dysfunction and ethical lapses dog every political endeavor Ms. Clinton undertakes; her most recent campaign was no exception. In February leaked fundraising memos showed donations crisscrossing. Vice chairwoman and Muslim Brotherhood operative Huma Abedin left the campaign in March amid new allegations of misconduct by husband and chronic dick-sellie peddler Anthony Weiner. But it was Ms. Clinton's slurred speech during an April roundtable that would prove most costly. Debbie Wasserman Schultz, DNC chairperson and spiral-perm survivor, cancelled all future DNC events in favor of "Abuela Tina", pre-recorded segments featuring Ms. Clinton in a kiddie pool fielding questions from heavily-vetted Hispanic toddlers. Even then controversy



PRESIDENT OBAMA PENS NEW SELF- VETTING POLICY

By TIM FLOPSWEAT

WASHINGTON — Eager to hasten the influx of refugees into the United States from war-torn Syria and other areas of thousand-year tribal unrest, President Obama issued by executive order Tuesday a new immigration package that would allow refugees of Muslim descent to vet themselves by test preysage or errand, bypassing U.S. Customs checkpoints to curb holiday wait times.

Reaction from Republican lawmakers was swift. "This guy is bonkers," Alabama Congressman Mo Brooks told associates. "The nation

Jeff Sessions forgets he once wanted to execute pot dealers: Let's jog his memory

Maybe Sessions is smoking pot too: He claims to have a foggy memory about supporting marijuana death sentences

JOHN DONOHUE AND MAX SCHOENING, THE CONVERSATION

[SKIP TO COMMENTS](#)



With Jeff Sessions out at the Justice Dept., the marijuana movement exhales

He described marijuana as a “very real danger” and has said its effects are “only slightly less awful” than those of heroin. Once, during a drug hearing when he was a Senator, he said he wanted to send a clear message: “Good people don’t smoke marijuana.”

So when Atty. Gen. Jeff Sessions was ousted recently, a collective sigh of relief rose up from proponents of legalized pot — activists, politicians, investors — who felt targeted by the nation’s top law enforcement officer.

Sessions’s departure has translated into spiking stocks for cannabis companies and a reset of sorts for the legalization movement which, since 2012, has seen nearly a dozen states pass recreational pot measures.

Colorado governor-elect Jared Polis, a staunch supporter of legal pot, said Sessions “had it out for states that have legalized marijuana.”



OCTOBER 06, 2022

Statement from President Biden on Marijuana Reform

[BRIEFING ROOM](#) [STATEMENTS AND RELEASES](#)

As I often said during my campaign for President, no one should be in jail just for using or possessing marijuana. Sending people to prison for possessing marijuana has upended too many lives and incarcerated people for conduct that many states no longer prohibit. Criminal records for marijuana possession have also imposed needless barriers to employment, housing, and educational opportunities. And while white and Black and brown people use marijuana at similar rates, Black and brown people have been arrested, prosecuted, and convicted at disproportionate rates.



OCTOBER 06, 2022

Statement from President Biden on Marijuana Reform

First, I am announcing a pardon of all prior Federal offenses of simple possession of marijuana. I have directed the Attorney General to develop an administrative process for the issuance of certificates of pardon to eligible individuals. There are thousands of people who have prior Federal convictions for marijuana possession, who may be denied employment, housing, or educational opportunities as a result. My action will help relieve the collateral consequences arising from these convictions.



OCTOBER 06, 2022

Statement from President Biden on Marijuana Reform

Second, I am urging all Governors to do the same with regard to state offenses. Just as no one should be in a Federal prison solely due to the possession of marijuana, no one should be in a local jail or state prison for that reason, either.



OCTOBER 06, 2022

Statement from President Biden on Marijuana Reform

Third, I am asking the Secretary of Health and Human Services and the Attorney General to initiate the administrative process to review expeditiously how marijuana is scheduled under federal law. Federal law currently classifies marijuana in Schedule I of the Controlled Substances Act, the classification meant for the most dangerous substances. This is the same schedule as for heroin and LSD, and even higher than the classification of fentanyl and methamphetamine – the drugs that are driving our overdose epidemic.



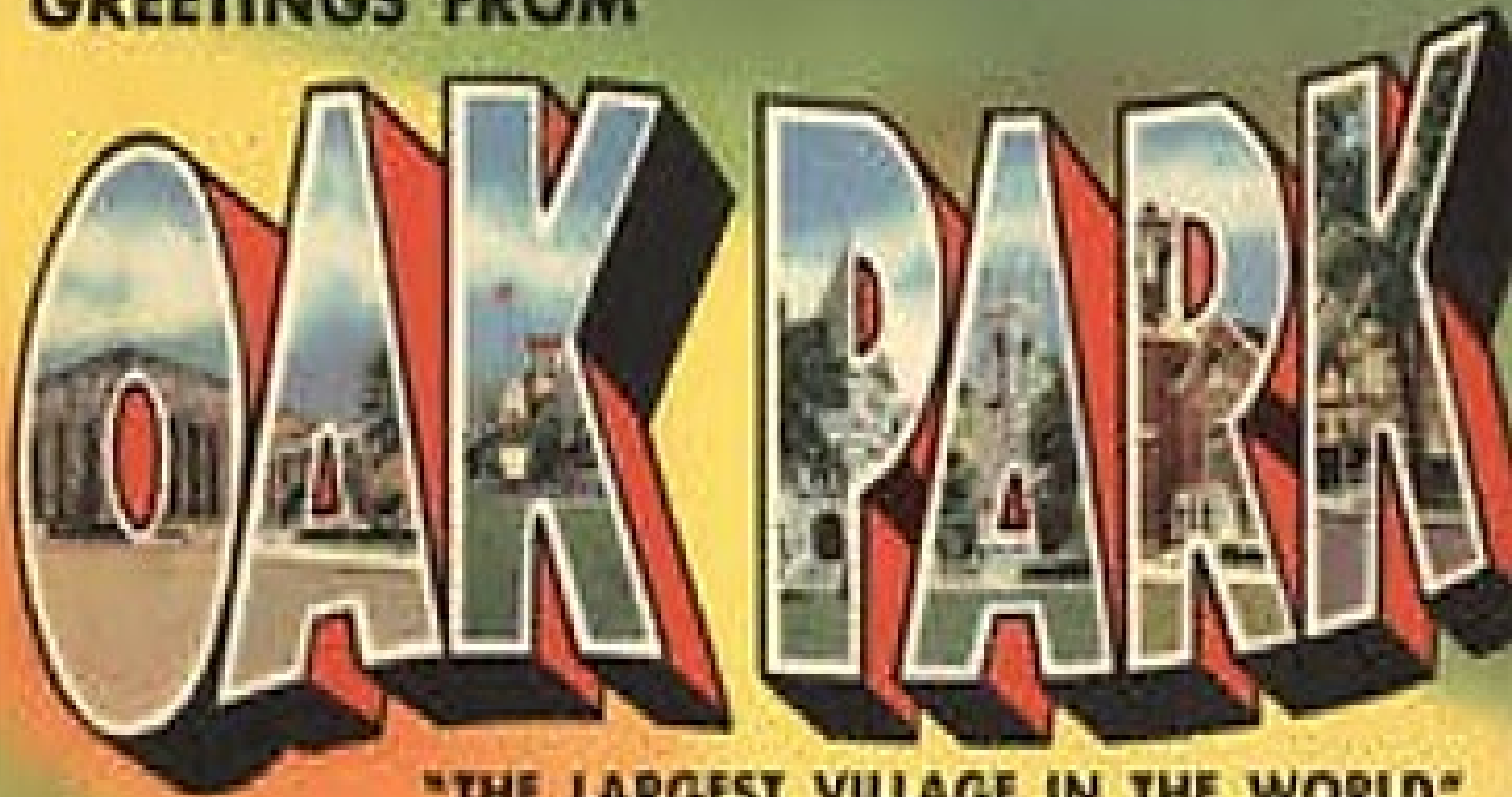
Rule 1.2(d) Safe Harbor Provision

...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.

Rule 1.2, Comment 9

“Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud.....There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.”

GREETINGS FROM



"THE LARGEST VILLAGE IN THE WORLD"

ILLINOIS



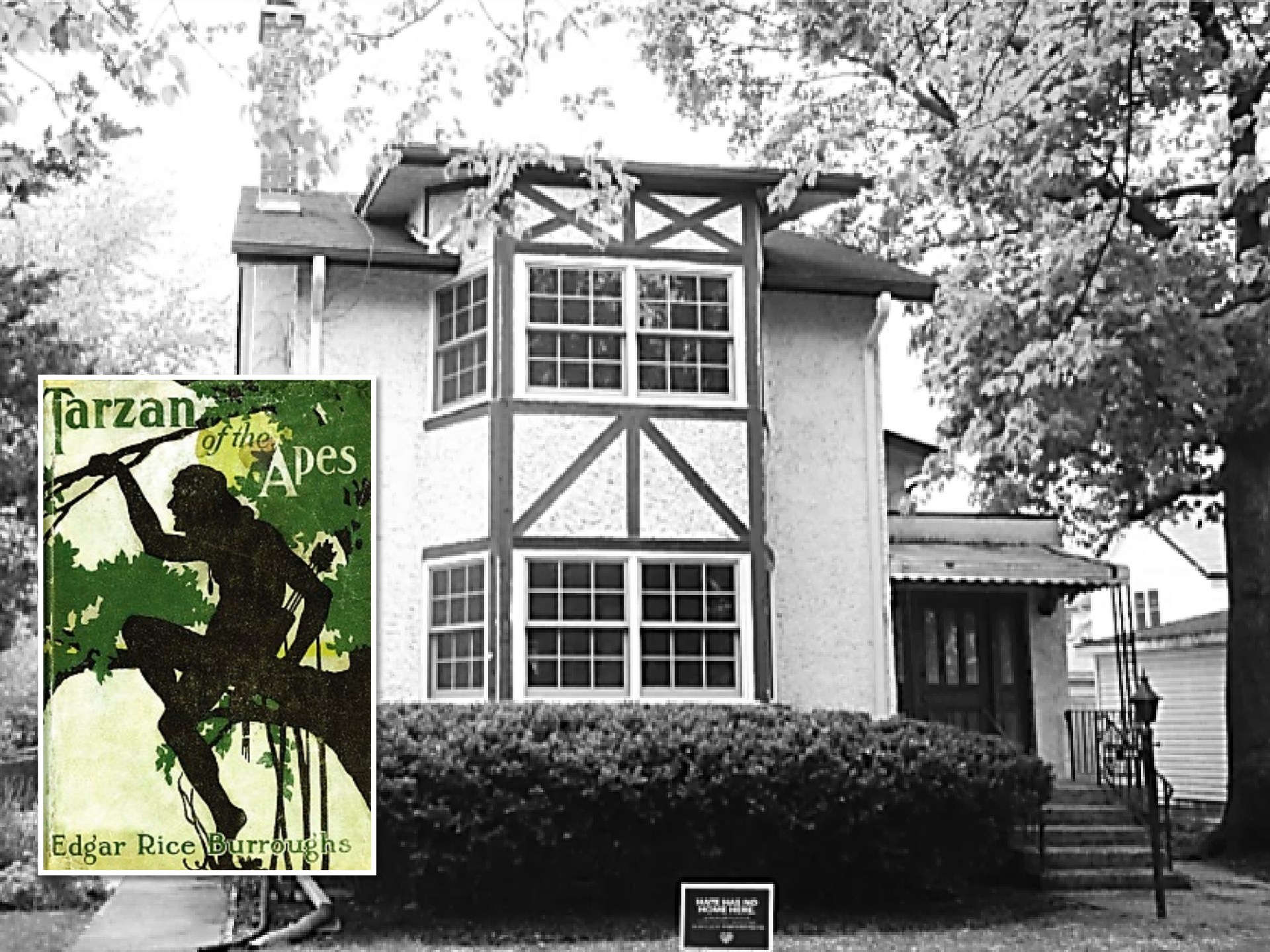
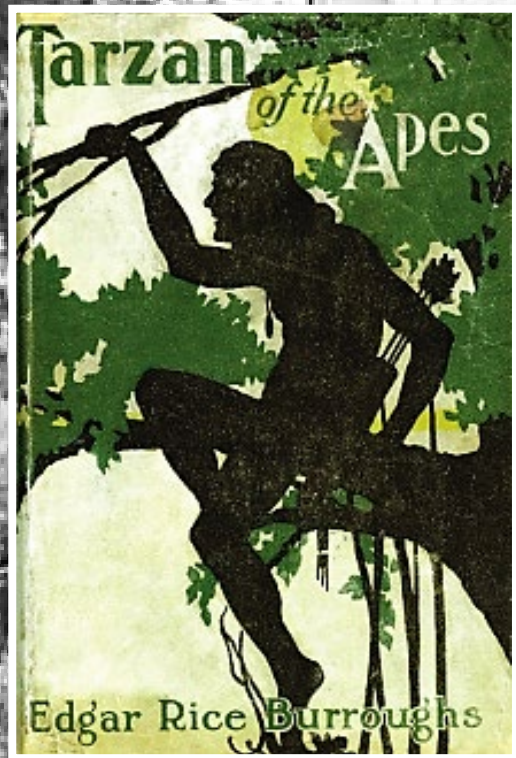


BIRTHPLACE

HEMINGWAY

Grand Opening

MUSEUM





Oak Park

River Forest



O'Hare Airport
8 miles

Miller St
Schneid St
Paulina St

Woodbine Ave

Kentworth Ave

Eudid Ave

Linden Ave

Iowa St

Elmwood Ave

Cuyler Ave

Harney Ave

Lombard Ave

Taylor Ave

Humphrey Ave

Augusta St

Chicago Ave.

CHICAGO AVE. BUSINESS DISTRICT

Ridgeland Ave

Superior St.

Erie St.

Ontario St.

Lake St.

Superior St.

Erie St.

Ontario St.

Ontario St.

Elizabeth St

Forest Ave

Ontario St.

Erie St.

Windsor Ave

Scoville Ave

Lake St.

Oak Park River Forest High School

Ridgeland Common

Stanhope Park

Westgate

North Blvd

THE AVENUE

MTA UNION PACIFIC WEST LINE

MTA UNION PACIFIC WEST LINE

South Blvd.

CTA GREEN LINE

CTA GREEN LINE

South Blvd.

Pleasant St.

6

SOUTH MARION

Randolph St.

Home Ave.

Clinton Ave.

Kentworth Ave

Grove Ave.

Oak Park Ave.

Eudid Ave

Wesley Ave.

East Ave.

Scoville Ave

Elmwood Ave.

Ridgeland Ave.

Cuyler Ave

Pleasant St.

Randolph St.

Harney Ave.

Washington Blvd.

Taylor Ave.

Humphrey Ave.

Madison St.

MADISON ST. BUSINESS DISTRICT

Monroe St.

Adams St.

Cuyler Ave.

High St.

Harney Ave.

Lombard Ave.

Taylor Ave.

Windsor Ave.

Humphrey Ave.

Division St.

Thomas St.

Augusta St.

Howard St.

Central Ave

Oak St.

Quick St.

Central Ave

Central Ave

Brown St.

Franklin St.

Dixon St.

Washington Blvd.

Lincoln St.

Madison St.

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Adams St.



Concordia University

Bonnie Brice

Clinton Pl.

William St.

Monroe Ave.

Jackson Ave.

Holly Ct.

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Franklin St.

Dixon St.

Washington Blvd.

Adams St.

Bonnie Brice

Clinton Pl.

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Lake St.

Franklin St.

Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(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.



Bar Association Opinions



**WELCOME TO
MAINE**

The way life should be



Maine



Opinion #199. Advising clients concerning Maine's Medical Marijuana Act

Issued by the Professional Ethics Commission

Date Issued: July 7, 2010

...the proposed client conduct is known to be a violation of federal criminal law. In those circumstances, the role of the attorney is limited. While attorneys may counsel or assist a client in making good faith efforts to determine the validity, scope, meaning or application of the law, the Rule forbids attorneys from counseling a client to engage in the business or to assist a client in doing so.

Opinion No. 14-07
October 2014

...An Illinois lawyer
may provide services
to a client on legal
matters generated by
the Compassionate
Use of Medical
Cannabis Pilot
Program Act...





ISBA Op. 14-07 Cont.

Given the conflict between federal and state law on the subject of marijuana as well as the accommodation provided by the Department of Justice, the provision of legal advice to those engaged in nascent medical marijuana businesses is far better than forcing such businesses to proceed by guesswork.

The Committee agrees: when a new statutory and regulatory system is promulgated by the State of Illinois, Illinois lawyers must be permitted to advise clients on how to conform their conduct to the law.

This Advisory Opinion expresses an interpretation of Illinois Rule of Professional Conduct 1.2(d) for the situation in which a lawyer provides services to a client whose conduct conforms to Illinois law but violates federal law. The ISBA believes this Advisory Opinion, narrowly tailored to the facts presented, is based upon sound policy and a good faith interpretation of the Illinois Rules of Professional Conduct. However, the ISBA has no role in lawyer regulation or discipline, and a lawyer's reliance on this Advisory Opinion may not serve as a defense to allegations of misconduct in the situation presented.

In addition to bar association opinions from Maine, Connecticut and Illinois, opinions were also issued from similar associations in:

- Arizona;**
- California;**
- Minnesota;**
- New York; &**
- Pennsylvania.**



State Remedies

The Colorado Fix

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

Comment

[14] A lawyer may counsel a client regarding the validity, scope, and meaning of Colorado constitution article XVIII, secs. 14 & 16, and may assist a client in conduct that the lawyer reasonably believes is permitted by these constitutional provisions and the statutes, regulations, orders, and other state or local provisions implementing them. In these circumstances, the lawyer shall also advise the client regarding related federal law and policy.

**Amended and Adopted by the Court, En Banc, March 24, 2014, effective immediately.
Justice Coats and Justice Eid would not approve Comment [14].**

However, Six Months Later...

...the U.S. District Court for the District of Colorado amended its local rules and opted out of Comment 14. Thus, the U.S. District Court's exception precludes members of that court's bar from representing cannabis related businesses.

See: <http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules/AttorneyRules.aspx>

Similar Fixes in Other States

Similarly, other states amended Rule 1.2 allowing lawyers in their states to counsel and assist clients with state authorized cannabis related businesses:

- Alaska (June 23, 2015);
- Connecticut (January 1, 2015);
- Hawaii (October 20, 2015);
- Nevada (May 7, 2014);
- Oregon (February 19, 2015); &
- Washington (November 6, 2014).

The Illinois Solution



Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer

...

(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

(1) discuss the legal consequences of any proposed course of conduct with a client,

(2) ~~and may~~ counsel or assist a client to make a good-faith effort to determine the validity, scope, meaning or application of the law, and

(3) counsel or assist a client in conduct expressly permitted by Illinois law that may violate or conflict with federal or other law, as long as the lawyer advises the client about that federal or other law and its potential consequences.

Rule 1.1: Competence



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



MedMen

CSI
Cannabis Supply Inc.

1145





REPORT

Banking regulations create mess for marijuana industry, banks, and law enforcement

See *In re Arenas*, 535 B.R. 845 (B.A.P. 10th 2015)(disallowing bankruptcy relief because their marijuana business activities are federal crimes);

&

***Olive v Commissioner of Internal Revenue*, 792 F.3d 1146 (9th Cir. 2015)(holding that cannabis dispensary was precluded from taking business expense deductions under Internal Revenue Code because it is a “trade or business...Consist[ing] of trafficking in controlled substances... Prohibited by Federal law.”)**

Slide Prepared by William Bogot, Fox Rothschild LLP

Sample Language Regarding Risks under Federal Criminal Law

[*Name of state*] has decriminalized the possession, sale, and distribution of marijuana by individuals and entities that have obtained appropriate licensure from the [*name of the relevant state regulatory authority*]. However, the conduct decriminalized by some states remains illegal under federal law, including but not limited to the Controlled Substances Act, 21 U.S.C. § 801 et seq. As a result, [*name of client*] faces certain risks and may be subject to a federal criminal prosecution. If convicted, the penalties may include a significant prison term, fine, or both. Moreover, without pursuing a criminal prosecution, the federal government can seize, and seek the civil forfeiture of, the real or personal property used to facilitate the sale of marijuana as well as the money or other proceeds. In the event of a civil or criminal litigation, there may also be limitations on confidentiality and the attorney-client privilege.

Although the U.S. Department of Justice has noted that a strong and effective state regulatory system and a marijuana operation’s compliance with such a system should be considered in the exercise of investigative and prosecutorial discretion, the Department’s authority to prosecute violations of federal law is wholly intact and in no way diminished by recent changes in the laws of some states.





[*Insert if the client is a service provider to the marijuana industry:*

[Current Reports Home](#)

ABA/BNA Lawyers' Manual on Professional Conduct: All Issues

Go: [Browse Contents](#) Search Options: Add to My Folders [Clear](#) | [Go to Hit](#)

Results in: [Current Reports](#) (62)

  [Add to My Folders](#)  [Share](#)  [Split Screen](#)

32 Law. Man. Prof. Conduct 373

Lawyer-Client Relationship

Lawyers Explore Murky Ethics of Representing Weed Industry

By [Samson Habte](#)

June 6 — Dina Rollman ran into problems when she tried to open a bank account for a voluntary, not-for-profit bar association of lawyers who represent medical **marijuana** businesses.

The bank wouldn't open an account because of its concerns about taking deposits from a group of professionals with ties to an industry that engages in activities that, although legal under Illinois law, remain criminal under federal law.

Rollman, who founded one of the first Illinois law firms to focus on the business end of **marijuana** law, related that anecdote during a June 2 panel discussion on the professional pitfalls, legal risks and practical difficulties facing lawyers who represent businesses in the rapidly growing **marijuana** industry.

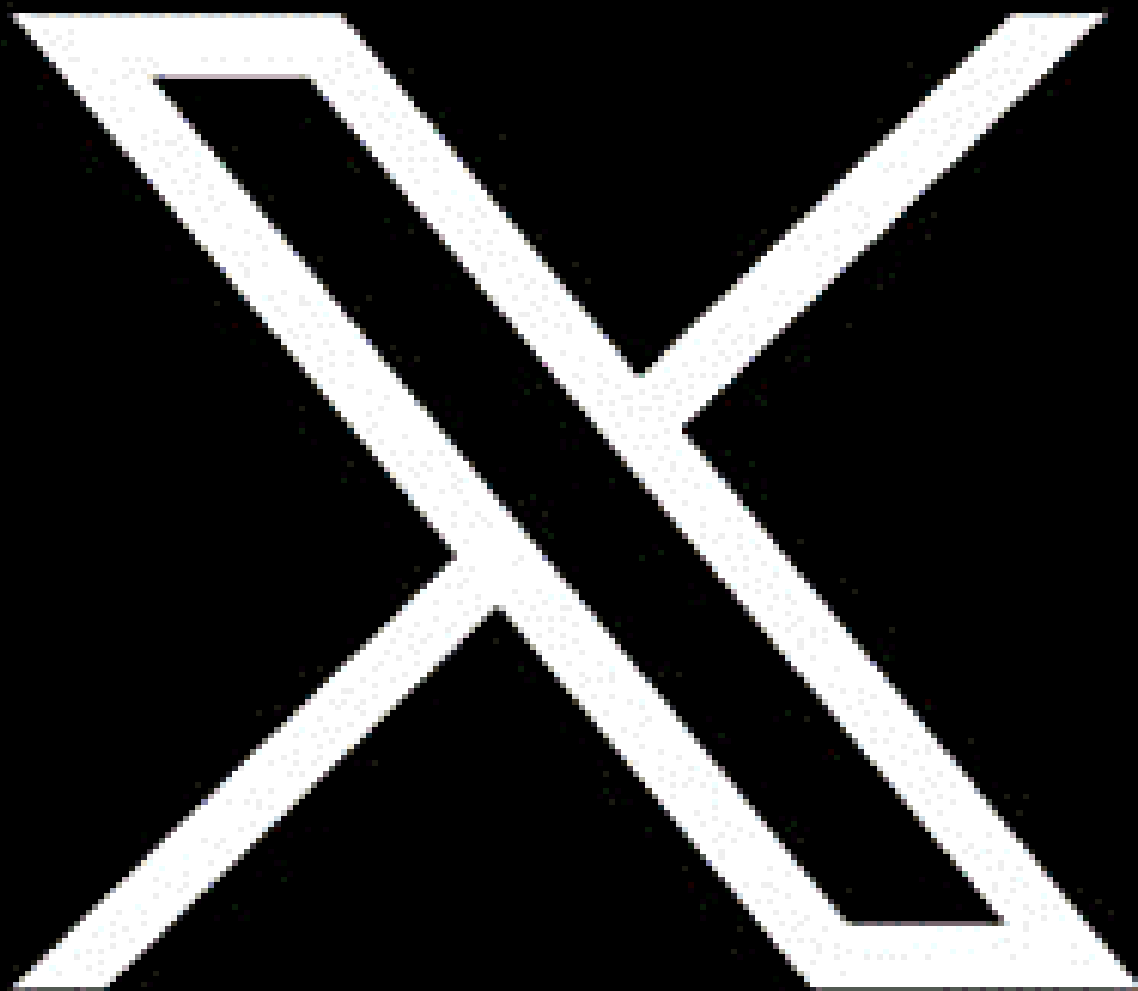
The discussion took place at the 42nd ABA National Conference on Professional Responsibility, held June 2-3 in Philadelphia.

The murky ethics of representing **marijuana** businesses has become a recurring topic of discussion at legal gatherings, and this panel marked the second time in three years that the topic was covered at the annual ABA conference, whose attendees include legal ethics and risk management advisers, bar regulators, law firm general counsel and lawyers who defend malpractice and attorney discipline cases.

Rollman wasn't the only pioneering cannabis lawyer on the panel. She was joined by Phil Cherner of Vicente Sederberg LLP, a Denver-based boutique that [describes itself](#) as "the first national law firm dedicated exclusively to **marijuana** law and policy."

The panelists and other authorities who spoke to Bloomberg BNA said the uncertainties facing cannabis industry lawyers stem from the absence of clear guidance, in the ethics rules or case law, on several questions regarding the propriety of representing **marijuana** businesses in states that have decriminalized the drug for recreational or medicinal purposes.

"One of the things people need to realize when they talk about ethics in this area is that not all lawyer work is treated the same," attorney and law professor Sam Kamin said in an interview with Bloomberg BNA.





ATTORNEY-CLIENT PRIVILEGE



Donald J. Trump 

@realDonaldTrump



Attorney–client privilege is dead!

♡ 98.8K 5:07 AM - Apr 10, 2018



 75.7K people are talking about this





Donald J. Trump ✓

@realDonaldTrump

Follow



Attorney Client privilege is now a thing of the past. I have many (too many!) lawyers and they are probably wondering when their offices, and even homes, are going to be raided with everything, including their phones and computers, taken. All lawyers are deflated and concerned!

5:56 AM - 15 Apr 2018

22,085 Retweets 97,621 Likes





FBI raids office, hotel room of Trump lawyer Michael Cohen



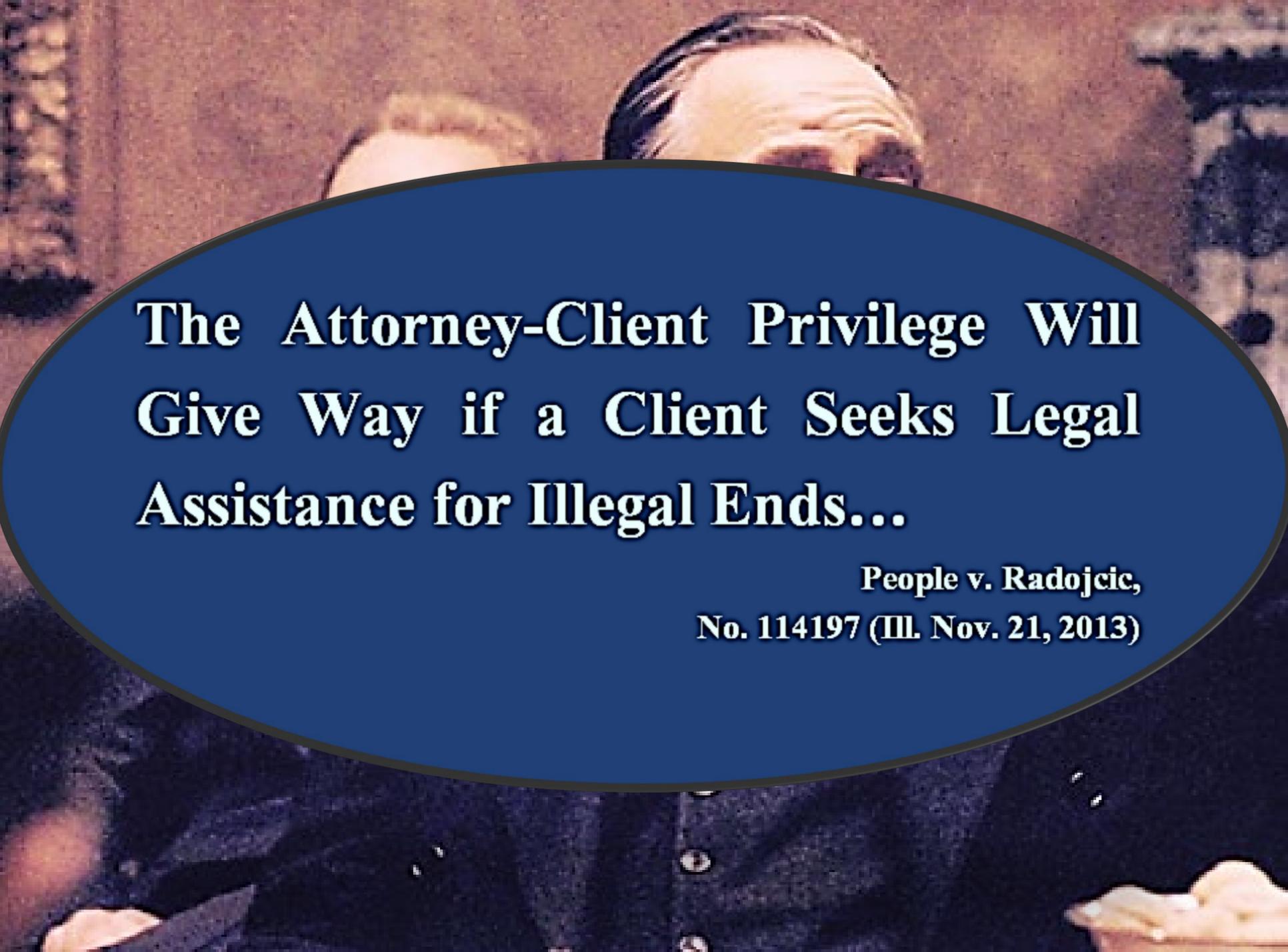




The Godfather



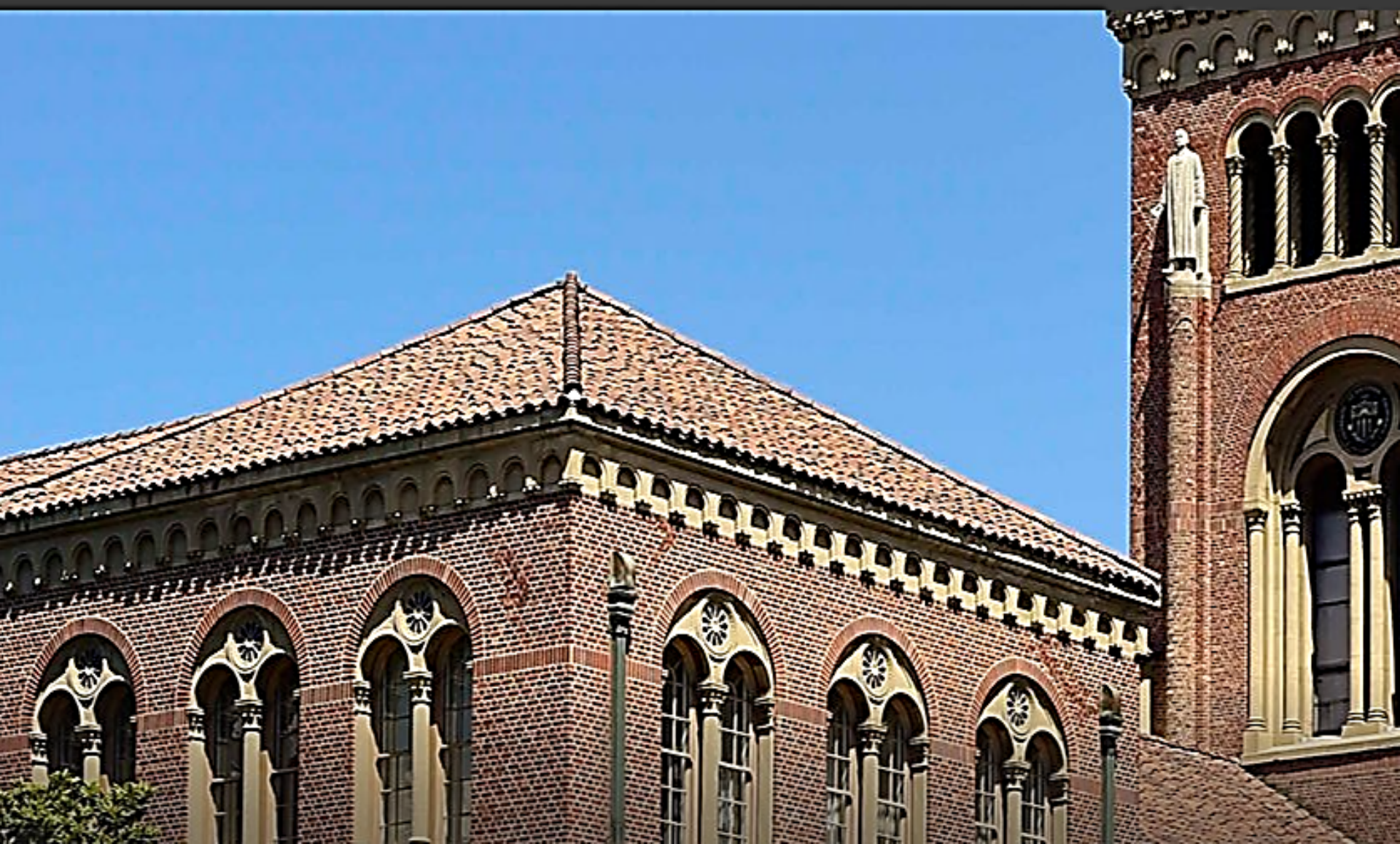




**The Attorney-Client Privilege Will
Give Way if a Client Seeks Legal
Assistance for Illegal Ends...**

**People v. Radojcic,
No. 114197 (Ill. Nov. 21, 2013)**

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Crime Fraud Exception

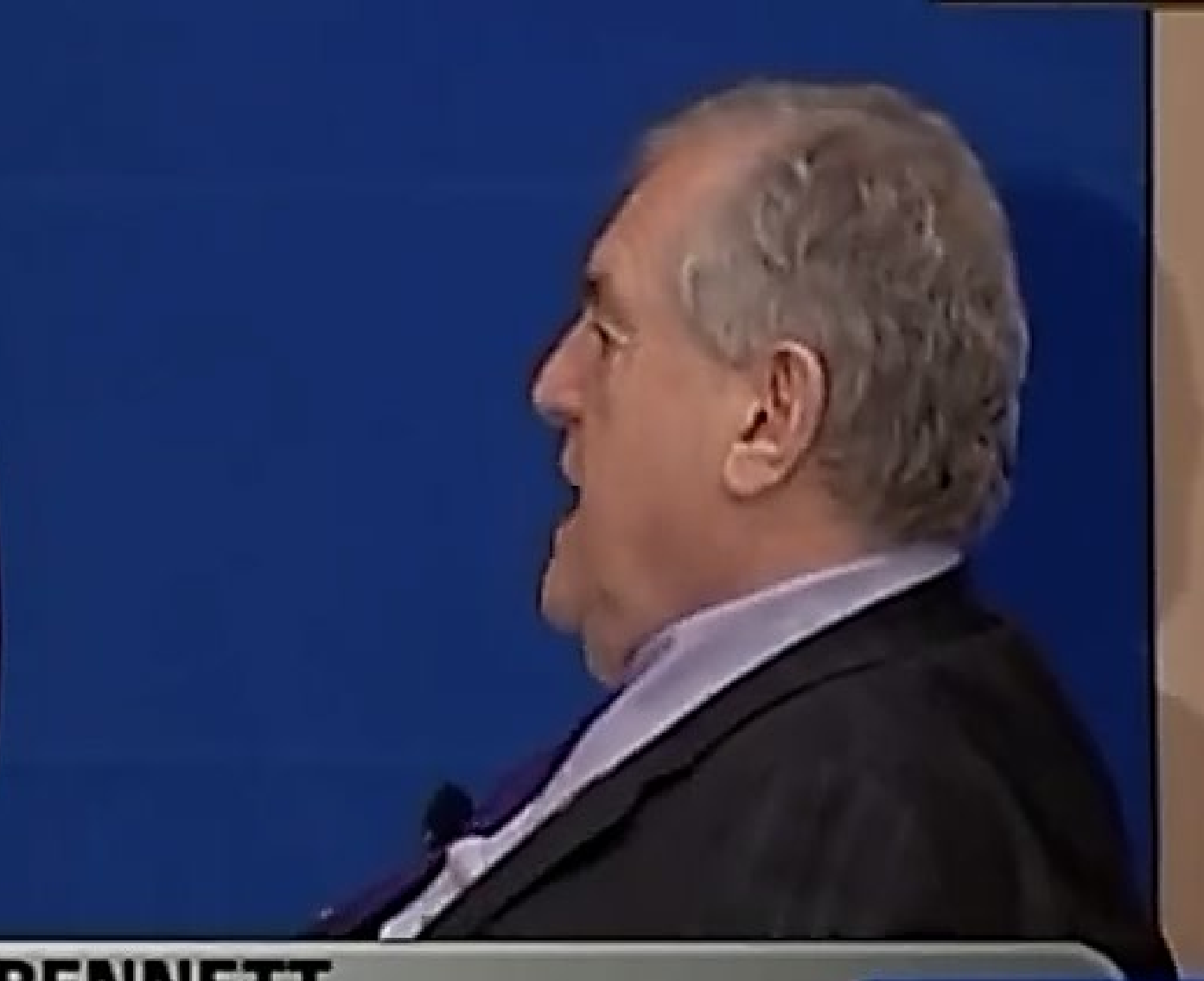
- Involves Communications in Furtherance of Contemplated or Ongoing Crime or Fraud;
- First recognized by SCOTUS in a 1906 Decision;
- Privilege Promotes Full & Frank Communications b/n Attorney & Client but does not Protect Discussion of Future Wrongdoing;
- Thus, Privilege only Protects Communications About Past Wrongs: &
- Lawyer Need Not Know That Lawyer is Being 'Used'.







To Monica - Happy Birthday! Bill Clinton
7-23-97



ROBERT BENNETT

Washington, DC Attorney

C-SPAN

America &
the Courts



THE LEWINSKY AFFIDAVIT

1. My name is Jane Doe #. I am 24 years old and I currently reside at 700 New Hampshire Avenue, N.W. Washington, D.C. 20037.
2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.
3. I can not fathom any reason that the plaintiff would seek information from me for her case.

* * *

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship.

THE LEWINSKY AFFIDAVIT

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In Re: Sealed Case, 162 F.3d 670 (D.C. Cir. 1998)

U.S. Court of Appeals for the District of Columbia Circuit - 162 F.3d 670 (D.C. Cir. 1998)

Decided May 26, 1998. Ordered Unsealed Dec. 1, 1998

Nathaniel H. Speights filed the briefs for appellant Monica Lewinsky.

Charles J. Ogletree, Jr. filed the briefs for appellant Francis D. Carter, Esq.

Robert J. Bittman, Deputy Independent Counsel, filed the briefs for cross-appellant the United States.

BEFORE: GINSBURG, RANDOLPH, and TATEL, Circuit Judges.

ORDER

PER CURIAM

Upon consideration of the responses of Francis D. Carter and of the United States of America, acting through the Office of the Independent Counsel, to the Court's order to show cause why the opinion in this case should not be unsealed, it is

ORDERED that the opinion in this case is no longer protected from public disclosure by Rule 6(e), Fed. R. Crim. P.

“Therefore, pursuant to our professional responsibility, we wanted to advise you that the Court should not rely on Ms. Lewinsky's affidavit or remarks of counsel characterizing that affidavit.”

ROBERT BENNETT LETTER TO
U.S. DISTRICT JUDGE SUSAN WEBBER-WRIGHT
JONES V. CLINTON



Notice of Suspension of Attorney's Privilege to Practice Law from the Supreme Court Committee on Professional Conduct. Suspended 5 years effective 1-19-01.

<u>Date of Action</u>	<u>Type of Action</u>	<u>Action</u>	<u>Rule</u>	<u>Rule Number</u>	<u>Stay Date</u>	<u>Reinstated Date</u>	<u>Case Number</u>	<u>Disciplinary Decision</u>	<u>Complainant</u>	<u>Note</u>
2/21/2001	Disciplinary Action	Suspended_Committee					2000_13	View Decision		Notice of Suspension of Attorney's Privilege to Practice Law from the Supreme Court Committee on Professional Conduct. Suspended 5 years effective 1-19-01.

... On Personal Usage ...



**STATE BAR ASSOCIATION OF NORTH DAKOTA
ETHICS COMMITTEE
OPINION NO. 14-02**

THIS OPINION IS ADVISORY ONLY

QUESTION PRESENTED

The Ethics Committee has been asked to render its opinion on whether Attorney may live and use medical marijuana prescribed by a physician in Minnesota and be licensed to practice law in North Dakota.

OPINION

Based on the facts presented below, Attorney would not be able to live and use medical marijuana prescribed by a physician in Minnesota while being licensed to practice law in North Dakota. The conduct would be a violation of N.D.R. Prof. Conduct 8.4(b).

other fund of the state.

(Source: P.A. 98-122, eff. 1-1-14.)

(410 ILCS 130/25)

(Section scheduled to be repealed on January 1, 2018)

Sec. 25. Immunities and presumptions related to the medical use of cannabis.

(a) A registered qualifying patient is not subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by an occupational or professional licensing board, for the medical use of cannabis in accordance with this Act, if the registered qualifying patient possesses an amount of cannabis that does not exceed an adequate supply as defined in subsection (a) of Section 10 of this Act of usable cannabis and, where the registered qualifying patient is a licensed professional, the use of cannabis does not impair that licensed professional when he or she is engaged in the practice of the profession for which he or she is licensed.



LAWYER AS A DEFENDANT



Rule 8.4: Misconduct



It is professional misconduct for a lawyer to:

* * *

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

AN EXAMPLE



GOING TO CALIFORNIA

- Lawyer Travels to California to Visit Friends for New Years;
- During Visit, Buys >7 Pounds of Sour Diesel from a Friend;
- After Visit, Lawyer Begins Driving his Subaru Outback from California to Return Home;
- Lawyer travels eastbound on I-80 through Winnemucca, Nevada;

AKES

WELCOME TO WINNEMUCCA



"PROUD OF IT"

IN NEVADA

- Lawyer Stopped by Sheriff's Deputy for Alleged Speeding;
- When Officer Approaches, Lawyer Hands Over Vehicle Registration and Business Card;
- Officer Claims to Smell Marijuana-Asks to Search Vehicle, but Lawyer Says No;
- Officer Says that he has a Drug Sniffing Dog in his Squad Car;
- Lawyer Asserts There are No Drugs in Car;

WINNEMUCCA

- Officer Brings Drug-Sniffing Dog from Police Car and Walks Dog Around Perimeter of Car;
- Dog Smells Dope;
- Officer Tells Lawyer that Dog has Detected Marijuana, Asks Lawyer if Car Contains the Drug;
- Lawyer responds, “[n]ot that I know of.”

THE SUBARU

- Officer Obtains Warrant by Phone to Search Car;
- After Search, Officer Finds:
 - Vacuum-Sealing Machine;
 - Supplies for Machine;
 - Vacuum-Sealed Brownies Containing Marijuana;
 - 8 Vacuum-Sealed Bags of Marijuana; &
 - \$1,050 in Cash.



Humboldt County Jail, Winnemucca, NV



Humboldt County Jail



Humboldt County Jail

801 Fairgrounds Rd, Winnemucca, NV



Write a review

3.5 ★★☆☆☆ 2 reviews

Sort by: Most relevant ▼



Anna Lisa

★★★★★ 3 months ago



Dylan Borkowski

★★☆☆☆ 5 months ago

CRIMINAL CHARGES

- Lawyer Charged with Felony Transporting a Controlled Substance and Felony Possession of Controlled Substance for Purpose of Sale;
- Lawyer Pleads to One Misdemeanor Count of Possession and Agrees to Forfeit Subaru to Humboldt County District Attorney's Office;
- Sentenced to 19 days in jail with credit for time served.

DISCIPLINARY ACTION

LAWYER CHARGED BY LAWYER REGULATOR:

- Making a False Statement of Material Fact to a Person (the Police Officer) in Violation of RPC Rule 4.1(a);
- Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation, in Violation of RPC Rule 8.4(c); and
- Committing a Criminal Act that Reflects Adversely on Lawyer's Honesty, Trustworthiness or Fitness as a Lawyer in Violation of RPC Rule 8.4(b).

SANCTION

LAWYER SUSPENDED FOR TWO YEARS & UNTIL FURTHER ORDER OF COURT, WITH THE SUSPENSION STAYED AFTER NINETY DAYS BY A TWO-YEAR PERIOD OF CONDITIONAL PROBATION.



Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(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.

1973





FLITE-FUEL

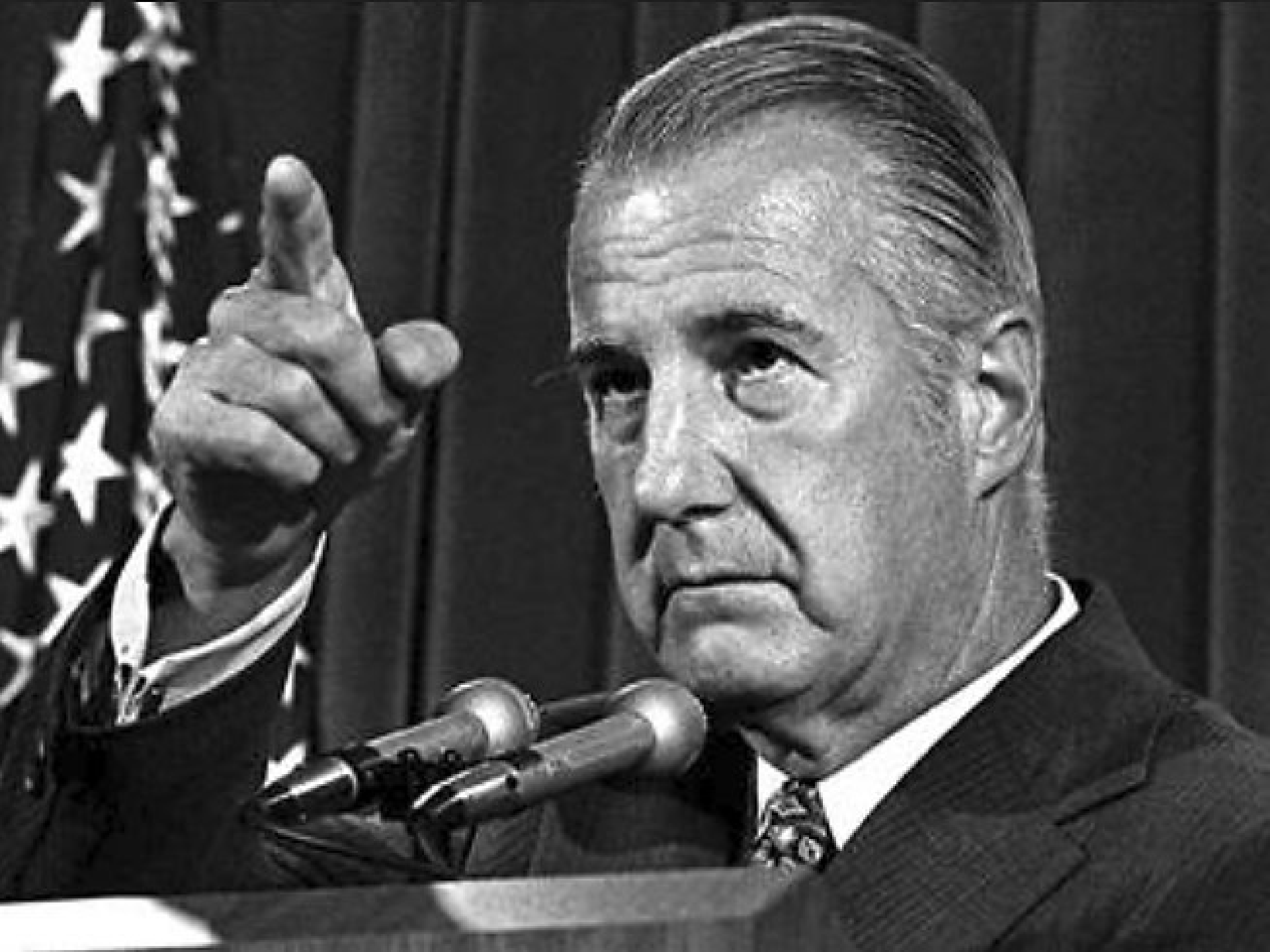
SIXTY-SIX

SORRY

NO

GAS





AGNEW QUILTS VICE PRESIDENCY AND ADMITS TAX EVASION IN '67; NIXON CONSULTS ON SUCCESSOR

Soviet Could Spur Move to Aid Israel

WASHINGTON, Aug. 21—The vice president of the United States today said he had been asked to resign from the office of vice president of the United States. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer.

A 10-Mile-Increase Gain

WASHINGTON, Aug. 21—The vice president of the United States today said he had been asked to resign from the office of vice president of the United States. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer.

Israel Claiming Heights

TEL AVIV, Thursday (AP)—Israel today claimed that it had captured the Golan Heights, a strategic area of land between Syria and Israel. The Israeli government said that it had captured the heights after a three-day battle. The Syrian government said that it had not been notified of the Israeli action and that it was a violation of international law.



Spiro T. Agnew speaking to reporters after leaving the White House.

Agnew Plea Ends 65 Days Of Insisting on Innocence

WASHINGTON, Aug. 21—Spiro T. Agnew today pleaded guilty to the charges of tax evasion and conspiracy to defraud the United States. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer.

Mets in World Series; Defeat Reds for Flag

NEW YORK, Thursday (AP)—The New York Mets today defeated the Cincinnati Reds in the first game of the World Series. The Mets won by a score of 4-3. The game was played at Shea Stadium in New York City. The Mets' victory was a surprise to many fans, as the Reds were considered the favorite to win the series.

Judge Orders Fine, 3 Years' Probation

WASHINGTON, Aug. 21—A federal judge today ordered Spiro T. Agnew to pay a fine of \$10,000 and serve a three-year probation. The judge said that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The judge said that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The judge said that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States.

EVIDENCE SHOWS GUILTY TO AGNEW

WASHINGTON, Aug. 21—The evidence against Spiro T. Agnew today showed that he was guilty of the charges of tax evasion and conspiracy to defraud the United States. The evidence included documents and testimony from witnesses. The evidence showed that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The evidence showed that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States.

Agnew-Nixon Exchange

WASHINGTON, Aug. 21—The exchange of letters between Spiro T. Agnew and Richard M. Nixon today showed that Agnew had been found guilty of the charges of tax evasion and conspiracy to defraud the United States. The letters showed that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The letters showed that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States.

NIXON RESIGNS HE URGES A TIME OF 'HEALING'; FORD WILL TAKE OFFICE TODAY

'Sacrifice' Is Praised; Kissinger to Remain

WASHINGTON, Aug. 21—President Richard M. Nixon today announced that he was resigning from the office of president of the United States. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer. He said he had been asked to resign by the president, and he had accepted the offer.

Speculation Rife on Vice President

WASHINGTON, Aug. 21—Speculation today was rife about the future of Spiro T. Agnew. Many people were wondering if he would be asked to resign from the office of vice president of the United States. The speculation was based on the fact that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The speculation was based on the fact that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States.

The Other Major News

WASHINGTON, Aug. 21—The other major news today included the resignation of Spiro T. Agnew and the election of Gerald R. Ford as vice president of the United States. The news also included the capture of the Golan Heights by Israel and the first game of the World Series between the New York Mets and the Cincinnati Reds. The news also included the capture of the Golan Heights by Israel and the first game of the World Series between the New York Mets and the Cincinnati Reds.



Spiro T. Agnew speaking to reporters after leaving the White House.

Rise and Fall Appraisal of Nixon Career

WASHINGTON, Aug. 21—The rise and fall of Richard M. Nixon today was the subject of a special appraisal. The appraisal was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The appraisal was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The appraisal was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States.

A Tiny G.O.P. Bastion Feels Loss and Relief

WASHINGTON, Aug. 21—The tiny G.O.P. bastion of Spiro T. Agnew today felt a sense of loss and relief. The feeling was based on the fact that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Agnew had been found guilty of tax evasion and conspiracy to defraud the United States.



Spiro T. Agnew speaking to reporters after leaving the White House.

Only Nixon Is Serene At Sad White House

WASHINGTON, Aug. 21—Only Richard M. Nixon today was serene at the White House. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States.

The 37th President Is First to Quit Post

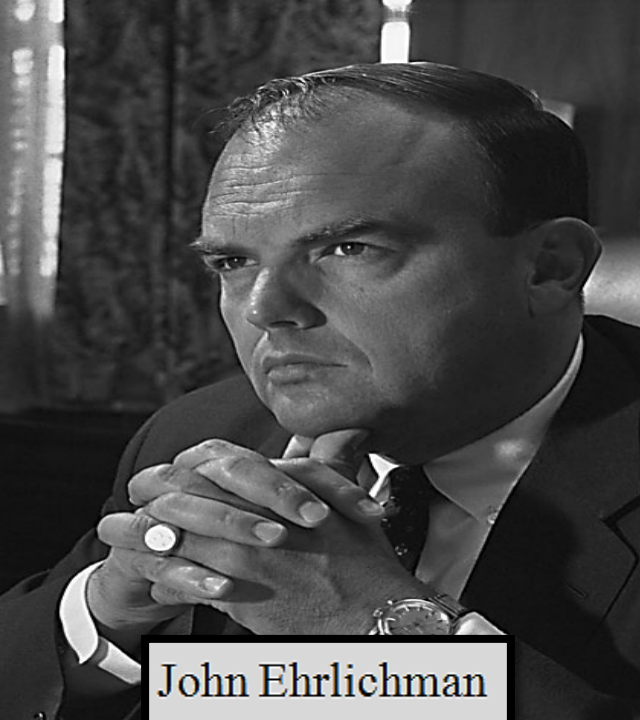
WASHINGTON, Aug. 21—The 37th president of the United States today was the first to quit the post. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States. The feeling was based on the fact that Nixon had been found guilty of tax evasion and conspiracy to defraud the United States.

Only Nixon Is Serene At Sad White House

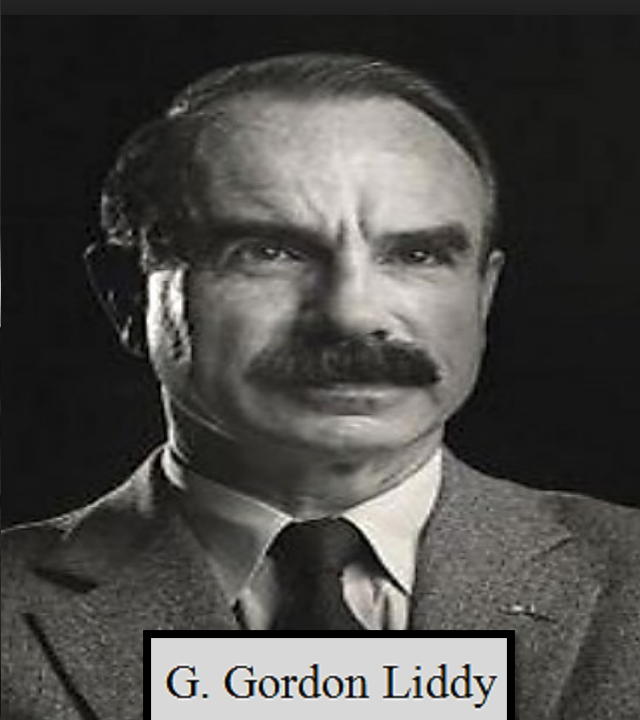
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Only Nixon Is Serene At Sad White House

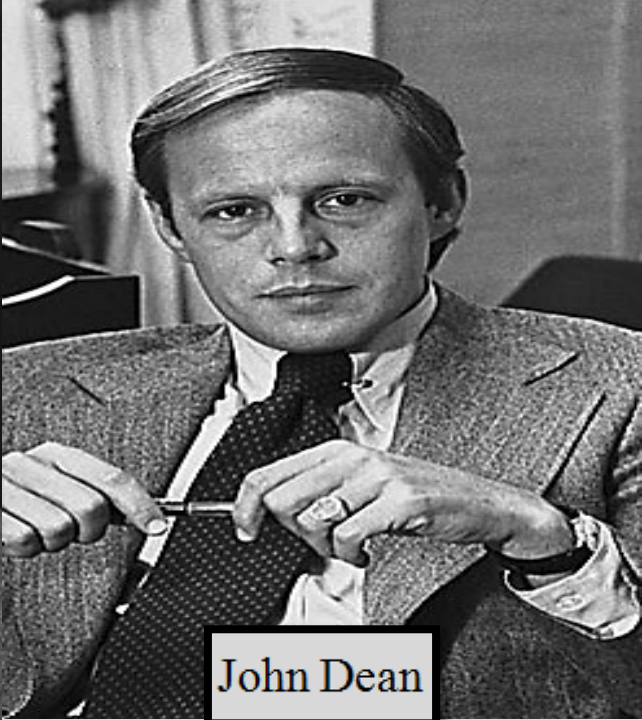
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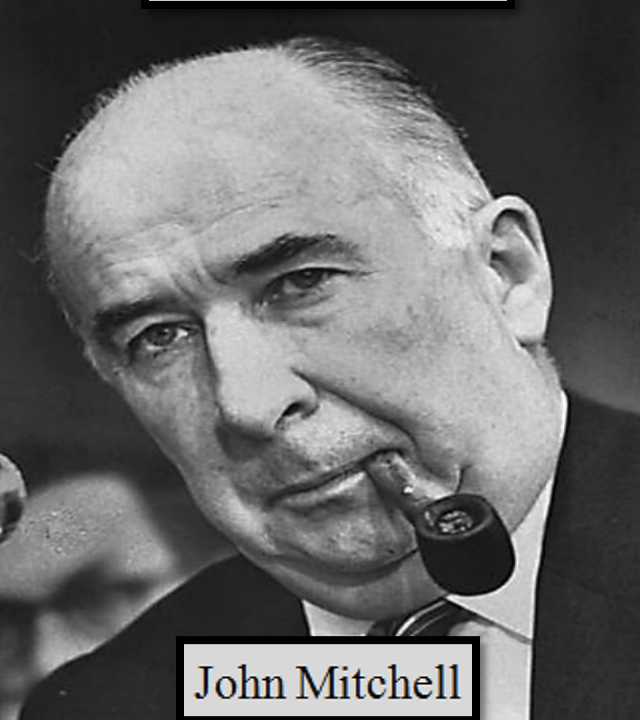
John Ehrlichman



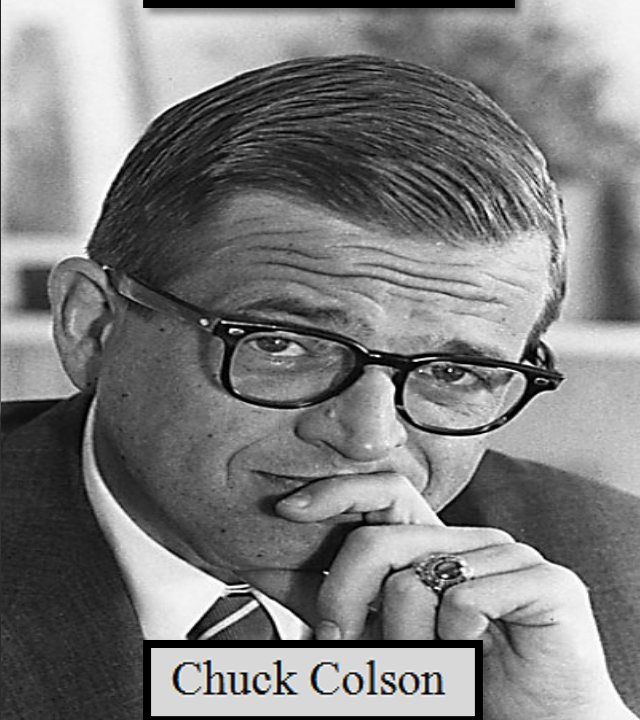
G. Gordon Liddy



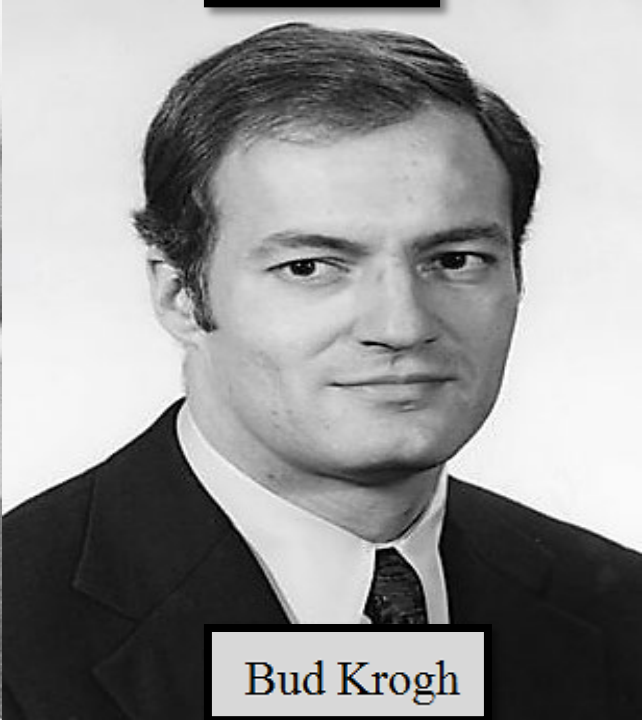
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John Mitchell



Chuck Colson



Bud Krogh

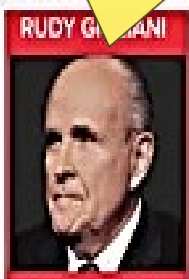
CHARGED IN GEORGIA CASE



CHARGED IN GEORGIA CASE



DONALD TRUMP



RUDY GIULIANI

TRUMP LAWYER



MARK MEADOWS

WHITE HOUSE CHIEF
OF STAFF



JOHN EASTMAN

TRUMP LAWYER



KENNETH CUCCINELLI

PRO-TRUMP LAWYER



JEFFREY CLARK

TOP JUSTICE
DEPARTMENT OFFICIAL



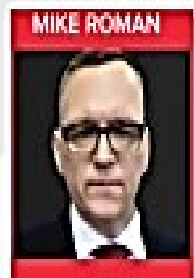
JENNA ELLIS

TRUMP
CAMPAIGN LAWYER



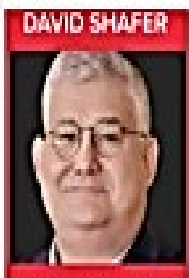
ROBERT C. O'LEARY

LAWYER
WHO PROMOTED
FRAUD CLAIMS



MIKE ROMAN

TRUMP
CAMPAIGN OFFICIAL



DAVID SHAFER

GEORGIA GOP CHAIR
AND FAKE ELECTOR



SHAWN STILL

STATE SENATOR AND
FAKE GOP ELECTOR



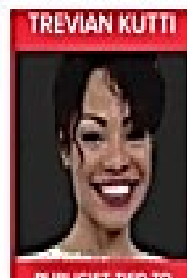
STEPHEN LEE

PASTOR TIED TO
INTIMIDATION OF
ELECTION WORKERS



HARRISON FLOYD

TRUMP ACTIVIST TIED
TO INTIMIDATION OF
ELECTION WORKERS



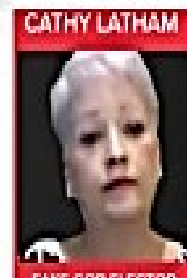
TREVIAN KUTTI

PUBLICIST TIED TO
INTIMIDATION OF
ELECTION WORKERS



SIDNEY POWELL

CAMPAIN LAWYER



CATHY LATHAM

FAKE GOP ELECTOR
TIED TO COFFEE
COUNTY BREACH



SCOTT HALL

TIED TO
COFFEE COUNTY
ELECTION BREACH



MISTY HAMPTON

COFFEE COUNTY
ELECTIONS



RAY SMITH

TRUMP
CAMPAIGN ATTORNEY

WBALTV 11

Lawyers indicted with Trump claim they were only doing their jobs

BY ERIC TUCKER

Associated Press Sep 1, 2023 0



ST. LOUIS POST-DISPATCH

WASHINGTON — As John Eastman prepared to surrender to Georgia authorities last week for an indictment related to efforts to overturn the 2020 presidential election, he issued a statement denouncing the criminal case as targeting attorneys "for their zealous advocacy on behalf of their clients."

Another defendant, Rudy Giuliani, struck a similar note, saying he was being indicted for his work as Donald Trump's attorney. "I never thought I'd get indicted for being a lawyer," he lamented.

The 18 defendants charged alongside Trump in this month's racketeering indictment in Fulton County include more than a half-dozen lawyers, and the statements from



ADVICE OF COUNSEL DEFENSE

Chicago Tribune

What is advice-of-counsel? And can Trump use it?

DECEMBER 13, 2018, 11:13 PM | WASHINGTON

By **Justin Mustian**
Associated Press

"I never directed Michael Cohen to break the law. He was a lawyer and he is supposed to know the law. It is called 'advice of counsel,'" Trump wrote on Twitter.

formally accused of a crime, is far from certain. And it could be risky.

"People talk about advice-of-counsel as a defense more than it's actually asserted, and it's rarely successful," said Dane Ciolino, a constitutional law professor at Loyola University in New Orleans.

5 Necessary Elements to Establish an Advice of Counsel Defense

- 1. Before taking action;**
- 2. Client, in good faith, sought advice of Attorney whom Client considered competent;**
- 3. For the purpose of securing advice on the lawfulness of the Client's possible future conduct;**
- 4. Client made a full and accurate report to Attorney of all material facts of which the Client knew; &**
- 5. Client acted strictly in accord with advice of Attorney, who had been given a full report.**

NOTE: A crucial element in the defense is that defendant secured advice on the lawfulness of possible future conduct.

Inside the effort to disbar attorneys who backed bogus election lawsuits

By Tierney Sneed, CNN

Updated 5:08 AM ET, Thu March 10, 2022



In this November 19, 2020, file photo, Rudy Giuliani conducts a news conference at the Republican National Committee on lawsuits regarding the outcome of the presidential election.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Rolando T. Acosta,	P.J.,
Dianne T. Renwick	
Sallie Manzanet-Daniels	
Judith J. Gische	
Barbara R. Kapnick,	JJ.

Motion No.	2021-00491
Case No.	2021-00506

In the Matter of
RUDOLPH W. GIULIANI
(ADMITTED AS RUDOLPH WILLIAM GIULIANI),
an attorney and counselor-at law:

ATTORNEY GRIEVANCE COMMITTEE FOR THE
FIRST JUDICIAL DEPARTMENT,
Petitioner,

RUDOLPH W. GIULIANI,
(OCA ATTY. REGISTRATION NO. 1080498),
Respondent.

For the reasons that follow, we conclude that there is uncontroverted evidence that respondent communicated demonstrably false and misleading statements to courts, lawmakers and the public at large in his capacity as lawyer for former President Donald J. Trump and the Trump campaign in connection with Trump's failed effort at reelection in 2020. These false statements were made to improperly bolster respondent's narrative that due to widespread voter fraud, victory in the 2020 United States presidential election was stolen from his client. We conclude that respondent's conduct immediately threatens the public interest and warrants interim suspension from the practice of law, pending further proceedings before the Attorney Grievance Committee (sometimes AGC or Committee).

Supreme Court, Appellate Division, All Departments

Part 1240. RULES FOR ATTORNEY DISCIPLINARY MATTERS

(effective October 1, 2016)

(as amended May 22, 2018)

§ 1240.9 Interim Suspension While Investigation or Proceeding is Pending

- (a) A respondent may be suspended from practice on an interim basis during the pendency of an investigation or proceeding on application or motion of a Committee, following personal service upon the respondent, or by substitute service in a manner approved by the Presiding Justice, and upon a finding by the Court that the respondent has engaged in conduct immediately threatening the public interest. Such a finding may be based upon: (1) the respondent's default in responding to a petition, notice to appear for formal interview, examination, or pursuant to subpoena under these Rules; (2) the respondent's admission under oath to the commission of professional misconduct; (3) the respondent's failure to comply with a lawful demand of the Court or a Committee in an investigation or proceeding under these Rules; (4) the respondent's willful failure or refusal to pay money owed to a client, which debt is demonstrated by an admission, judgment, or other clear and convincing evidence; or (5) other uncontroverted evidence of professional misconduct.



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Reporter of
Decisions
Reason: I attest to
the accuracy and
integrity of this
document
Date: 2021.05.19
16:19:15 -05'00'

Rule 774. Interim Suspension

(a) Grounds for Suspension. During the pendency of a criminal indictment, criminal information, disciplinary proceeding or disciplinary investigation, the court on its own motion, or on the Administrator's petition for a rule to show cause, may suspend an attorney from the practice of law until further order of the court. The petition shall allege:

(1) the attorney has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon his fitness to practice law, and there appears to be persuasive evidence to support the charge; or

(2) a complaint has been voted by the Inquiry Board; the attorney has committed a violation of the Rules of Professional Conduct which involves fraud or moral turpitude or threatens irreparable injury to the public, his or her clients, or to the orderly administration of justice; and there appears to be persuasive evidence to support the charge.



Rule 9: Disciplinary Enforcement.

Supreme Court ▼

12.3. Temporary Suspension.

(a) On petition of Disciplinary Counsel and supported by an affidavit or declaration under penalty of perjury demonstrating facts personally known to affiant showing that an attorney has misappropriated funds to the attorney's own use, has failed to respond to the Board or Disciplinary Counsel concerning a complaint of misconduct, has failed to substantially comply with a Tennessee Lawyer Assistance Program monitoring agreement requiring mandatory reporting to Disciplinary Counsel pursuant to Section 36.1, or otherwise poses a threat of substantial harm to the public, the Court may issue an order with such notice as the Court may prescribe imposing temporary conditions of probation on said attorney or temporarily suspending said attorney, or both.

(b) Any order of temporary suspension which restricts the attorney maintaining a trust account shall, when served on any bank maintaining an account against which said attorney may make withdrawals, serve as an injunction to prevent said bank from making further payment from such account or accounts on any obligation except in accordance with restrictions imposed by the Court.

(c) Any order of temporary suspension issued under this Rule shall preclude the attorney from accepting any new cases, unless otherwise provided in the order. An order of temporary suspension shall not preclude the attorney from continuing to represent existing clients during the first thirty days after the effective date of the order of temporary suspension, unless otherwise provided in the order; however, any fees tendered to such attorney during such thirty day period shall be deposited in a trust fund from which withdrawals may be made only in accordance with restrictions imposed by the Court.

(d) The attorney may for good cause request dissolution or amendment of any such order of temporary suspension by filing in the Nashville office of the Clerk of the Supreme Court and serving on Disciplinary Counsel a Petition for Dissolution or Amendment. Such petition for dissolution shall be set for immediate hearing before the Board or a panel. The Board or panel shall hear such petition forthwith and file its report and recommendation to the Supreme Court with the utmost speed consistent with due process. There shall be no petition for rehearing. Upon receipt of the foregoing report, the Court may modify its order if appropriate or continue such provision of the order as may be appropriate until final disposition of all pending disciplinary charges against said attorney;

**In the Matter of
RUDOLPH W. GIULIANI
(ADMITTED AS RUDOLPH WILLIAM GIULIANI),
an attorney and counselor-at law:**

What Ethics Rules were Reviewed by the Court:

- **3.3(a);**
- **4.1;**
- **8.4(c);**
- **8.4(h)-Conduct that calls into question a lawyer's fitness.**

**In the Matter of
RUDOLPH W. GIULIANI
(ADMITTED AS RUDOLPH WILLIAM GIULIANI),
an attorney and counselor-at law:**

What Facts Supported the Rule Violations:

- Respondent Falsely Claimed Penn. Had Hundreds of Thousands of Extra Mail-In Ballots Cast;
- In a Court Proceeding in Penn., During a Respondent Falsely Said the Case Was About Fraud When it was Not;
- Respondent Claimed that Thousands of Dead People, Including Joe Frazier, Voted in the 2020 Election;

**In the Matter of
RUDOLPH W. GIULIANI
(ADMITTED AS RUDOLPH WILLIAM GIULIANI),
an attorney and counselor-at law:**

What Facts Supported the Rule Violations (Cont.)

- Respondent Claimed that Tens of Thousands of Underage People Voted in Georgia; &**
- Respondent Asserted that Tens of Thousands of Undocumented Immigrants Voted in Arizona.**

**In the Matter of
RUDOLPH W. GIULIANI
(ADMITTED AS RUDOLPH WILLIAM GIULIANI),
an attorney and counselor-at law:**

Why an Interim Suspension?

- Court Rejected Argument That There was no Immediate Threat of Future Harm, Because he has, and will Continue to Exercise, Personal Discipline to Forbear from Discussing These Matters in Public Anymore; &**
- Respondent had no Defense to the Charges. Instead, he said all of his Statements were supported by a “Confidential Informant” and “Anonymous” Sources.**

Rusty Bowers says Giuliani told him: 'We've got lots of theories, we just don't have the evidence'

BY BRETT SAMUELS - 06/21/22 2:02 PM ET

Arizona House Speaker Rusty Bowers (R) on Tuesday said he repeatedly pressed Rudy Giuliani for proof of his claims of election fraud after the 2020 election, but added that Giuliani failed to produce any.

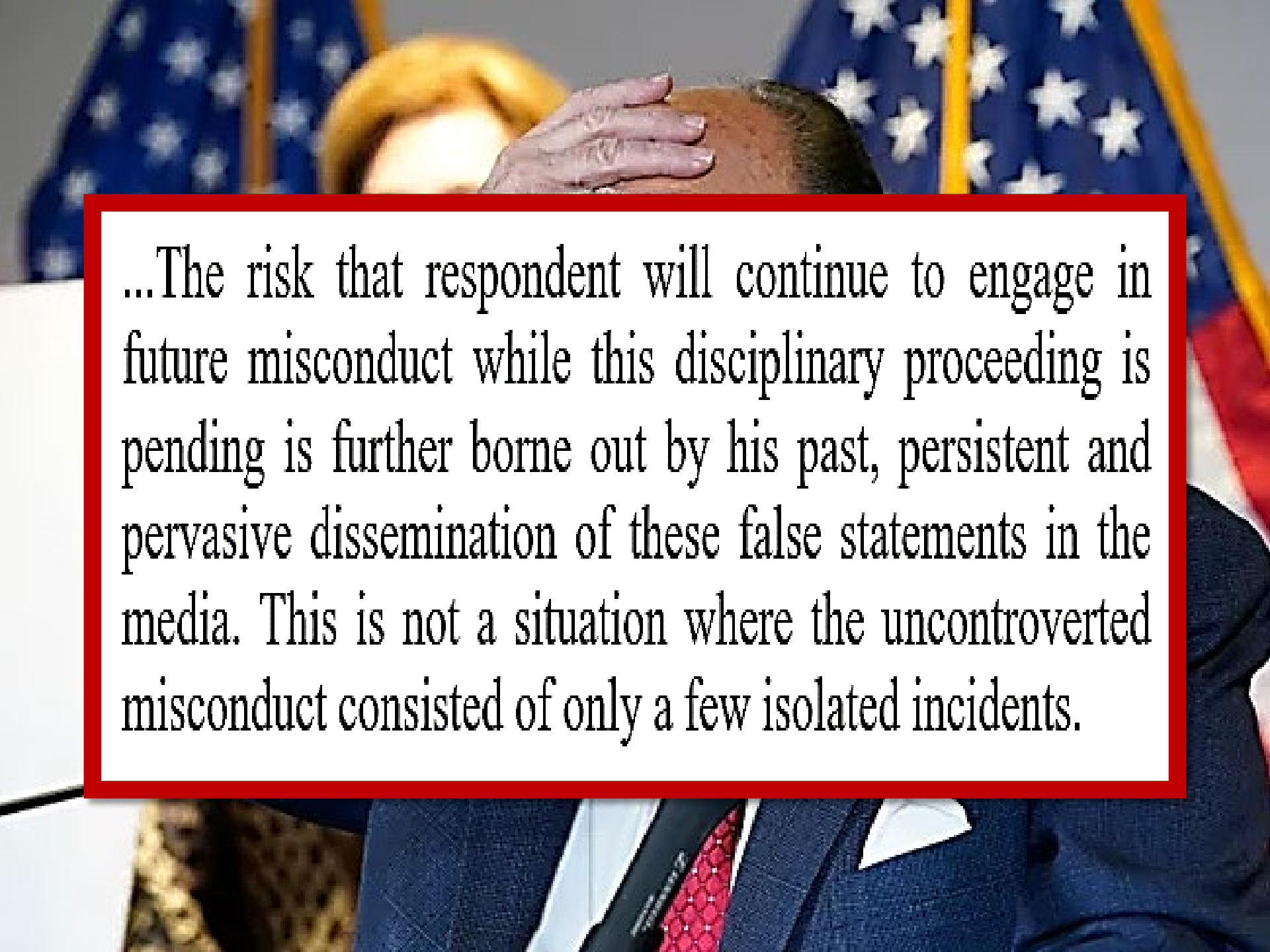
"My recollection, he said, 'We've got lots of theories, we just don't have the evidence,'" Bowers told the House select committee investigating the Jan. 6, 2021, Capitol attack at Tuesday's hearing.

Rudy Giuliani told a Dominion Voting Systems lawyer he 'didn't have the time' to verify 2020 election fraud claims

Yelena Dzhanova

Sat, November 6, 2021, 7:30 AM ·



A photograph of a man in a dark blue suit and red patterned tie, covering his face with his right hand. He is standing in front of two American flags. The image is partially obscured by a red-bordered text box.

...The risk that respondent will continue to engage in future misconduct while this disciplinary proceeding is pending is further borne out by his past, persistent and pervasive dissemination of these false statements in the media. This is not a situation where the uncontroverted misconduct consisted of only a few isolated incidents.

Rudy Giuliani suspended from practicing law in D.C. court

By [Rachel Weiner](#)

🔖 ⬆️ 🗨️ 837

July 7, 2021 | Updated yesterday at 7:03 p.m. EDT

The D.C. Court of Appeals has temporarily barred Rudolph W. Giuliani from practicing law, following a similar decision in New York.

A committee of judges in New York determined last month that Giuliani was unfit to keep practicing law after he “communicated demonstrably false and misleading statements to courts, lawmakers and the public at large” while representing former president Donald Trump and the Trump campaign in connection with their efforts to overturn the results of the 2020 election.

A day after the ruling, disciplinary counsel in D.C. recommended suspending Giuliani’s license in D.C. until the New York case is resolved. On Wednesday the D.C. Court of Appeals agreed.



Rule 3.1: Meritorious Claims & Contentions



A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

Rule 3.1 Meritorious Claims And Contentions - Comment



[2] The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions. Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law.

Federal Rules of Civil Procedure

Rule 11. Signing of Pleadings, Motions, and Other Papers; Representations to Court; Sanctions

(a) Signature.

Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of attorney or party.

(b) Representations to Court.

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions.

If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) How Initiated.

(A) **By Motion.** A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) **On Court's Initiative.** On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

(2) **Nature of Sanction; Limitations.** A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subdivision (b)(2).

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3) **Order.** When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

(d) Inapplicability to Discovery.

Subdivisions (a) through (c) of this rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 26 through 37.



DC-22-02562

§§

DALLAS COUNTY, TEXAS

(File Nos. 202006349, 202006347, 202006393, §
202006599, 202100006, 202100652, §
202101297, 202101300, 202101301, §
202103520) §

116th

JUDICIAL DISTRICT

show the following:

DC-22-02562
CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

§
§
§

IN THE DISTRICT COURT OF

DISCIPLINARY RULES OF PROFESSIONAL CONDUCT VIOLATED

The facts alleged herein constitute a violation of the following Texas Disciplinary Rules of Professional Conduct:

3.01 - A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.

show the following:

DC-22-02562
CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

§
§

IN THE DISTRICT COURT OF

3.02 - In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.


3.03(a)(1) - A lawyer shall not knowingly: make a false statement of material fact or law to a tribunal.

3.03(a)(5) - A lawyer shall not knowingly: offer or use evidence that the lawyer knows to be false.

8.04(a)(3) - A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.



News Releases

 Select Language | ▼

Media Contact

Office of Communications | 213-765-1388 | barcomm@calbar.ca.gov

State Bar Announces John Eastman Ethics Investigation



Tuesday, March 1, 2022 Categories: News Releases

The State Bar of California's Chief Trial Counsel George Cardona announced today that since September, his office has been conducting an investigation of John Charles Eastman (State Bar No. 193726), a California attorney. The investigation is focused on whether Eastman engaged in conduct in violation of California rules governing attorneys following and in relation to the November 2020 presidential election.

The announcement is made pursuant to Business and Professions Code section 6086.1(b)(2) and Rule of Procedure 2302(d)(1), which authorize the Chief Trial Counsel, when warranted for protection of the public, to give notice to the licensee, to issue an announcement confirming the fact of an investigation, clarifying



3 minute read • July 22, 2022 11:41 AM CDT • Last Updated 3 months ago

Ex-Trump Justice official Clark faces legal disciplinary charges

By Sarah N. Lynch



WASHINGTON, July 22 (Reuters) - Legal licensing authorities in Washington announced on Friday they have filed disciplinary charges against Jeffrey Bossert Clark, a former Trump administration Justice Department official who tried to get himself appointed as attorney general to help promote Donald Trump's false election fraud claims.

Clark, who is now also facing a federal investigation into his conduct, is accused of attempting to "engage in conduct involving dishonesty" and attempting actions "that would seriously interfere with the administration of justice," according to a petition filed by the D.C. Bar's Office of Disciplinary Counsel. [read more](#)

3 minute read • October 17, 2022 4:47 PM CDT • Last Updated a day ago

Trump ally Clark asks U.S. court to block disciplinary proceedings against him

By S...

Clark argues that the District of Columbia Court of Appeals and the local bodies of the D.C. Bar responsible for filing and adjudicating disciplinary proceedings against attorneys do not have the jurisdiction to bring ethics charges against him.

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In his lawsuit in the U.S. District Court for the District of Columbia, Clark argues that the District of Columbia Court of Appeals and the local bodies of the D.C. Bar responsible for filing and adjudicating disciplinary proceedings against attorneys do not have the jurisdiction to bring ethics charges against him.



Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer



(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.

Rule 1.16: Declining or Terminating Representation



(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

THE FOLLOWING PREVIEW HAS BEEN APPROVED FOR
ALL AUDIENCES

BY THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.

ABA House amends Model Rule to address anti-money-laundering efforts

BY AMANDA ROBERT

AUGUST 8, 2023, 4:25 PM CDT

After a contentious debate, the ABA House of Delegates approved amendments to ABA Model Rule of Professional Conduct 1.16, which covers declining or terminating representation, at the ABA Annual Meeting in Denver on Tuesday.

According to the [report](#) that accompanies Resolution 100, the ABA Standing Committee on Ethics and Professional Responsibility and the ABA Standing Committee on Professional Regulation proposed changes to help ensure that “lawyers conduct client due diligence—appropriate to the circumstances—to detect and prevent involvement in unlawful activities,” such as money laundering or terrorism financing.

The amendments say a lawyer must assess the facts and the circumstances of each representation to determine whether they may accept or continue the representation. They also say if a client or a prospective client insists on using the lawyer’s services to commit or further a crime or fraud, the lawyer must withdraw from or decline the representation.

New language proposed in Rule 1.16’s comments makes clear that a lawyer should conduct due diligence throughout their entire representation of a client. It also says a lawyer may have to conduct further inquiry

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY
STANDING COMMITTEE ON PROFESSIONAL REGULATION

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

RESOLVED, That the American Bar Association amends ABA Model Rule of Professional Conduct 1.16 and its Comments [1], [2], and [7] as follows (insertions underlined, deletions struck through):

Rule 1.16: Declining or Terminating Representation

(a) A lawyer shall inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation. Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged; or

(4) the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the limitations on the lawyer assisting with the proposed conduct.

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY
STANDING COMMITTEE ON PROFESSIONAL REGULATION

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

RESOLVED, That the American Bar Association amends ABA Model Rule of Professional Conduct 1.16 and its Comments [1], [2], and [7] as follows (insertions underlined, deletions struck through):

Rule 1.16: Declining or Terminating Representation

Comment

[1] Paragraph (a) imposes an obligation on a lawyer to inquire into and assess the facts and circumstances of the representation before accepting it. The obligation imposed by Paragraph (a) continues throughout the representation. A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion. Ordinarily, a representation in a matter is completed when the agreed-upon assistance has been concluded. See Rules 1.1, 1.2(c) and 6.5. See also Rule 1.3, Comment [4].

if the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the limitations on the lawyer assisting with the proposed conduct.

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY
STANDING COMMITTEE ON PROFESSIONAL RESPONSIBILITY

Mandatory Withdrawal

[2] A lawyer ordinarily must decline or withdraw from representation if the client demands that the lawyer engage in conduct that is illegal or violates the Rules of Professional Conduct or other law. The lawyer is not obliged to decline or withdraw simply because the client suggests such a course of conduct; a client may make such a suggestion in the hope that a lawyer will not be constrained by a professional obligation. Under paragraph (a)(4), the lawyer's inquiry into and assessment of the facts and circumstances will be informed by the risk that the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud. This analysis means that the required level of a lawyer's inquiry and assessment will vary for each client or prospective client, depending on the nature of the risk posed by each situation. Factors to be considered in determining the level of risk may include: (i) the identity of the client, such as whether the client is a natural person or an entity and, if an entity, the beneficial owners of that entity, (ii) the lawyer's experience and familiarity with the client, (iii) the nature of the requested legal services, (iv) the relevant jurisdictions involved in the representation (for example, whether a jurisdiction is considered at high risk for money laundering or terrorist financing), and (v) the identities of those depositing into or receiving funds from the lawyer's client trust account, or any other accounts in which client funds are held. For further guidance assessing risk, see, e.g., as amended or updated, Financial Action Task Force Guidance for a Risk-Based Approach for Legal Professionals, the ABA Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing, A Lawyer's Guide to Detecting and Preventing Money Laundering (a collaborative publication of the International Bar Association, the American Bar Association and the Council of Bars and Law Societies of Europe), the Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Business Conduct, and the U.S. Department of Treasury Specially Designated Nationals and Blocked Persons List.

...in using
...a crime or fraud, despite the
...pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the
...on the lawyer assisting with the proposed conduct.

Rule 1.13: Organization as Client



(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.

Board of Professional Responsibility



Ethics Workshop