

RULE 1.3 DILIGENCE

A lawyer shall not neglect a legal matter entrusted to the lawyer.

Adopted 01/01/05

SEE: In re BOURCHIER, 322 Or. 561, 909 P.2d 1234

RULE 1.4 COMMUNICATION

- (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 01/01/05

SEE: In re BOURCHIER, 322 Or. 561, 909 P.2d 1234

RULE 1.5 FEES

- (a) A lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee or a clearly excessive amount for expenses.
- (b) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides 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;
 - (3) the fee customarily charged in the locality for similar legal services;
 - (4) the amount involved and the results obtained;
 - (5) the time limitations imposed by the client or by the circumstances;
 - (6) the nature and length of the professional relationship with the client;
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (8) whether the fee is fixed or contingent.
- (c) A lawyer shall not enter into an arrangement for, charge or collect:
 - (1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of spousal or child support or a property settlement; or
 - (2) a contingent fee for representing a defendant in a criminal case.
- (d) A division of a fee between lawyers who are not in the same firm may be made only if:
 - (1) the client gives informed consent to the fact that there will be a division of fees, and
 - (2) the total fee of the lawyers for all legal services they rendered the client is not clearly excessive.
- (e) Paragraph (d) does not prohibit payments to a former firm member pursuant to a separation or retirement agreement, or payments to a selling lawyer for the sale of a law practice pursuant to Rule 1.17.

Adopted 01/01/05

SEE: In re GASTINEAU, 317 Or. 545, 857 P.2d 136

RULE 1.15 - TRUST ACCOUNT

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" maintained in the jurisdiction where the lawyer's office is situated. Each lawyer trust account shall be an interest bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform rules of the jurisdictions in which the accounts are maintained. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five year after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purpose of paying bank service charges or meeting minimum balance requirements on that account, but only in an amount necessary for those purposes.

(c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

Adopted 01/01/05

Amended 11/30/05

Paragraph (a) amended to eliminate permission to have trust account "elsewhere with the consent of the client" and to require accounts to conform to jurisdiction in which located. Paragraph (b) amended to allow deposit of lawyer funds to meet minimum balance requirements.

SEE: In re PHELPS, 306 Or. 508, 760 P.2d 1331
In re WHIPPLE, 320 Or. 476, 886 P.2d 7

RULE 8.4 - DISHONEST

(a) It is professional misconduct for a lawyer to:

- (1) violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (2) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer's fitness to practice law;
- (4) engage in conduct that is prejudicial to the administration of justice;
- (5) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate these Rules or other law; or
- (6) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

(b) Notwithstanding paragraphs (a)(1), (3) and (4) and Rule 3.3(a)(1), it shall not be professional misconduct for a lawyer to advise clients or others about or to supervise lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights, provided the lawyer's conduct is otherwise in compliance with these Rules of Professional Conduct. "Covert activity," as used in this rule, means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. "Covert activity" may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place or will take place in the foreseeable future.

Adopted 01/01/05

SEE: In re HOLMAN, 297 Or. 36, 682 P.2d 243
In re EADS, 303 Or. 111, 734 P.2d 340
In re MARTIN, 328 Or. 177, 970 P.2d 638