

# **MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA**

March 6, 2019  
Texas Law Center, Room 103  
Austin, Texas  
And by Teleconference

## **MINUTES**

### **CALL TO ORDER; ROLL CALL**

The meeting was called to order at 10:02 a.m.

Members Present: Chairman M. Lewis Kinard; Timothy Belton; Amy Bresnen; Claude Ducloux; Hon. Dennise Garcia; Rick Hagen; Vincent Johnson; and Karen Nicholson.

Members Not Present: W. Carl Jordan.

State Bar of Texas Staff Present: Seana Willing, Chief Disciplinary Counsel; James Ehler, Deputy Counsel for Litigation and Regional Counsel (Office of the Chief Disciplinary Counsel); Ray Cantu, Deputy Executive Director; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison; Gene Major, Director (Advertising Review Department and Attorney Compliance Division).

### **A. INTRODUCTIONS**

Brad Johnson introduced Ms. Willing and Mr. Ehler, who were invited to address the Committee regarding proposed changes to Rule 1.01, Texas Disciplinary Rules of Professional Conduct (TDRPC).

Brad Johnson introduced Richard “Dickie” Hile and Leo Figueroa, who were invited to provide feedback regarding the proposed advertising rules, as well as Mr. Major.

### **B. APPROVAL OF MINUTES**

Mr. Ducloux addressed the Committee on this agenda item. Mr. Belton made a Motion that the Committee approve the minutes from the February 6, 2019, meeting. The Motion was seconded by Judge Garcia. The Committee voted in favor of the Motion.

### **C. DISCUSSION OF PROPOSED ADVERTISING RULES**

Mr. Ducloux addressed the Committee on the proposed advertising rules. Mr. Figueroa provided feedback on behalf of the Texas Board of Legal Specialization on proposed Rule 7.02. Mr. Hile provided feedback regarding the proposed advertising rules. The Committee discussed the proposed advertising rules, with additional feedback provided by Mr. Hile and Mr. Major. The Committee reviewed and discussed written public comments regarding the proposed advertising rules, as well as a recent poll on trade names. Mr. Squires addressed the Committee on the trade

name poll.

#### **D. SUPREME COURT OF TEXAS ORDER AMENDING COMMENT 8 TO RULE 1.01**

Mr. Ducloux addressed the Committee regarding the recent order by the Supreme Court of Texas amending Comment 8 to Rule 1.01, TDRPC, as recommended by Committee.

#### **E. COMMENTS BY THE CHAIR**

Mr. Kinard thanked those in attendance and others who have participated in the rule proposal process for their participation and contributions. Mr. Kinard expressed the usefulness of having membership and public engagement in the process and thanked those who have encouraged additional participation. Mr. Kinard encouraged continued participation by membership and the public in the Committee's work.

Mr. Kinard addressed the Committee regarding the recent order by the Supreme Court of Texas amending Comment 8 to Rule 1.01, TDRPC.

#### **F. CONTINUED DISCUSSION OF PROPOSED ADVERTISING RULES**

The Committee returned to the subject of the proposed advertising rules. Brad Johnson briefed the Committee on the statutory timelines and obligations relating to the proposed advertising rules, as well as action options on the rules. The Committee discussed the proposed advertising rules further. Mr. Squires and Mr. Cantu addressed issues relating to the rule proposal process. Mr. Kinard discussed the option of republishing an amended version of the proposed advertising rules. Ms. Bresnen addressed the committee regarding a recently filed legislative bill relating to advertisements for legal services. The Committee further discussed public comments pertaining to the proposed advertising rules. The Committee discussed the subcommittee on lawyer advertising producing an amended version of the proposed rules, as well as comments to the proposed rules, for the Committee's next meeting. The Committee discussed options for addressing the issue of trade names in the proposed rules.

#### **G. DISCUSSION OF RULE 1.01 COMPETENT AND DILIGENT REPRESENTATION**

Mr. Ducloux recognized Ms. Willing and Mr. Ehler. Brad Johnson briefed the Committee on the status of proposed Rule 1.01, TDRPC. Ms. Willing addressed the Committee regarding the proposed changes to the rule and the Committee responded with comments. Vincent Johnson explained the basis for the proposal by the Committee. Mr. Ehler expressed concerns about the proposed rule. The Committee further discussed the proposed rule and Ms. Willing and Mr. Ehler provided additional feedback. The Committee will continue to evaluate the proposed rule.

Mr. Ducloux left the meeting at 12:18 p.m.

Ms. Willing and Mr. Ehler left the meeting at 12:19 p.m.

## **H. CONTINUED DISCUSSION OF PROPOSED ADVERTISING RULES**

The subcommittee on lawyer advertising will develop an amended version of the proposed advertising rules for the Committee's April 18, 2019, meeting. Mr. Kinard and Vincent Johnson discussed an additional public comment pertaining to the proposed advertising rules.

## **I. TIMELINES**

Brad Johnson addressed the Committee regarding the public hearings scheduled for the April 18, 2019, meeting and Mr. Kinard responded with comments.

## **ADJOURNMENT**

Mr. Hagen made a Motion to Adjourn. Vincent Johnson seconded the Motion. The Committee voted in favor of the Motion and the meeting adjourned at 12:23 p.m.