

MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

March 3, 2021
By Teleconference

MINUTES

Members Present: Chair M. Lewis Kinard; Timothy D. Belton; Amy Bresnen; Claude Ducloux; Justice Dennise Garcia; Rick Hagen; Professor Vincent Johnson; W. Carl Jordan; Karen Nicholson.

State Bar of Texas Staff Present: Seana Willing, Chief Disciplinary Counsel; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison.

A. CALL TO ORDER; ROLL CALL

Mr. Kinard called the meeting to order at 10:02 a.m. Mr. Squires called the roll and a quorum was present.

B. COMMENTS FROM THE CHAIR; UPDATE ON 2021 RULES VOTE

Mr. Kinard thanked those listening, as well as everyone in the State Bar and the general public who has taken part during the rule proposal process. The 2021 rules vote by State Bar membership will end at 5:00 p.m. CST on March 4, 2021. Mr. Kinard encouraged those who have not yet voted to vote online in order to ensure that their ballot is received by the voting deadline. Mr. Kinard explained that the link to vote is available at texasbar.com and at texasbar.com/rulesvote, along with additional resources related to the rules vote. Mr. Kinard discussed the rules vote and encouraged those listening to vote. Mr. Kinard discussed presentations by Committee members related to the rules vote. Mr. Kinard noted that an article by Professor Vincent Johnson was recently published in *Texas Lawyer*. Mr. Kinard discussed recent promotional videos that he and Mr. Ducloux took part in related to the rules vote.

C. APPROVAL OF THE MINUTES OF THE LAST MEETING

Mr. Kinard addressed the Committee on this agenda item. Mr. Ducloux made a motion to approve the minutes of the February 3, 2021, meeting. Ms. Bresnen seconded the motion. The Committee voted in favor of the motion.

D. PROPOSED COMMENT TO PROPOSED RULE 1.16, TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (TDRPC)

Mr. Kinard addressed the Committee on this agenda item. Professor Vincent Johnson briefed the Committee on a draft of possible amendments to the proposed comment to proposed Rule 1.16. The Committee further discussed proposed Rule 1.16 and the proposed amendments to the proposed comment. Two members of the public addressed the Committee on the agenda item and Committee members responded with comments. Mr. Ducloux made a motion to amend the proposed comment to proposed Rule 1.16 as set out in the draft, and, if proposed Rule 1.16 is approved by Bar membership, to submit the amended proposed comment to the Supreme Court of Texas. Ms. Bresnen

seconded the motion. The Committee voted in favor of the motion.

E. PROPOSED RULE 1.00. TERMINOLOGY, TDRPC

Mr. Kinard addressed the Committee on this agenda item. Mr. Kinard stated that the Committee previously published a version of proposed Rule 1.00 and accepted public feedback. Mr. Kinard explained that the Committee decided changes to the previously published proposal were needed. Professor Vincent Johnson briefed the Committee on possible changes to the proposal, which were included in an updated draft of proposed Rule 1.00. The Committee further discussed the subject. Mr. Ducloux made a motion to initiate the rule proposal process and to publish the updated proposal in the *Texas Bar Journal* and the *Texas Register*. Ms. Bresnen seconded the motion. The Committee voted in favor of the motion. Proposed Rule 1.00 will be published in the May 2021 issue of the *Texas Bar Journal* and the May 7, 2021, issue of the *Texas Register*. The Committee will hold a public hearing on proposed Rule 1.00 at its June 10, 2021, meeting, and will accept public comments on the proposal through July 13, 2021.

F. PROPOSED RULE TIMELINES

Mr. Brad Johnson addressed the Committee on timelines related to proposed Rule 1.00 (Terminology), TDRPC, and proposed Rule 1.17 (Sale of Law Practice), TDRPC. The Committee further discussed the timeline related to proposed Rule 1.00.

G. AGENDA ITEMS FOR NEXT MEETINGS

Mr. Kinard addressed the Committee on this agenda item. At its April 7, 2021, meeting, the Committee will discuss scheduling its September 2021 meeting. The Committee will also hold a public hearing on proposed Rule 1.17 (Sale of Law Practice), TDRPC, at its April 7, 2021, meeting.

H. ADJOURNMENT

Ms. Nicholson made a motion to adjourn. Mr. Belton seconded the motion. The Committee voted in favor of the motion. The meeting adjourned at 10:47 a.m.