

O'Donnell, Shanna

From: Stovall, Marcy <MStovall@PULLCOM.COM>
Sent: Thursday, October 17, 2019 5:49 PM
To: Del Ciampo, Joseph
Cc: Chapman, Bill (bchapman@ctbar.org); 'Rinehart, Kim E.'
Subject: RE: Referral from the Rules Committee

Dear Attorney Del Ciampo,

On behalf of the CBA Standing Committee on Professional Ethics, I write in response to the inquiry from the Rules Committee concerning Judge Moore's proposal addressed to the recently amended Commentary to Rule 7.1 of the Rules of Professional Conduct. Judge Moore expresses concern about an addition to the Commentary that interposes a reference to Rule 8.4(3). The sentence in question is the first sentence of the third paragraph of the Commentary, and it currently reads as follows: "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Rule 8.4 (3)."

Thank you to the Rules Committee for giving the Ethics Committee the opportunity to offer comments.

It is the Ethics Committee's understanding that, consistent with the ABA's 2018 revisions to Model Rule 7.1 and its Commentary, the new sentence was likely added to the Commentary merely to cross-reference another Rule that covers a related topic, and thus to point the reader to that Rule for additional guidance. That said, we can see Judge Moore's point that it adds little to the discussion in the Commentary and could be confusing given that it comes after a rather specific discussion of misleading but true statements and before another specific discussion relevant to stating or implying influence with government officials.

Therefore, the Ethics Committee would not object to removal of the sentence from the Commentary.

Alternatively, to maintain the cross reference as guidance, the sentence could be revised to read as follows: "In addition to the provisions of this Rule, see Rule 8.4(3) defining professional misconduct to include conduct involving dishonesty, fraud, deceit, or misrepresentation."

The Ethics Committee *opposes* altering the sentence to add a reference to "a misleading communication" as that phrase is not used in Rule 8.4(3), and thus adding the phrase would create an inaccurate reference to that Rule.

I plan to attend the October 21, 2019, meeting of the Rules Committee and will be happy to answer questions the Committee members may have.

Very truly yours,

Marcy Tench Stovall
Legislative Liaison for the Standing Committee on Professional Ethics



Standing Committee on Professional Ethics

From: Del Ciampo, Joseph [mailto:Joseph.DelCiampo@jud.ct.gov]
Sent: Tuesday, September 24, 2019 8:13 AM
To: Stovall, Marcy
Subject: Referral from the Rules Committee

Dear Attorney Stovall,

Attached is a referral to you from the Rules Committee. Thank you

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