

APPROVED MINUTES

MINUTES

SUPREME COURT'S ADVISORY COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT

Administrative Office of the Courts
230 South 500 East, Ste. 300
Salt Lake City, Utah 84102

February 18, 1997

PRESENT

Commissioner Arnett
Robert Burton
Gary Chrystler
Bill Hyde
Tom Kay
Carolyn McHugh
Judge Nehring
Kent Roche
Gary Sackett
Carol Stewart
Steve Trost, Chair
Earl Wunderli

EXCUSED

Steve Hutchinson

STAFF

Peggy Gentles

I. WELCOME AND APPROVAL OF MINUTES

Steve Trost welcomed the Committee members to the meeting. The minutes of the December 16, 1996 meeting and January 13, 1997 were approved with changes.

II. PROPOSED COMMENT TO RULE 1.14.

The Committee considered suggested changes to Rule 1.14 and the comment prepared by the Legal Center for People with Disabilities. The suggested changes were prepared at the request of the Committee at the January meeting. Steve Trost noted that the Rules Subcommittee had not had time to consider the suggestions and make recommendations. The Committee first considered the proposed change to paragraph (b) of the rule. The proposal removes "best" from the reference to the client's interest. This change would mirror the language of the ABA Model Rule. Robert Burton moved that the Committee approve the proposed change to Rule 1.14(b) to be published for comment. Thomas Kay seconded. The motion passed.

The Committee considered the proposed comment to Rule 1.14. Kent Roche said that he felt that

the proposed comment was better than the model comment because it incorporated some guidance from the ABA Formal Opinion 96-404. The Committee debated the inclusion of a discussion of confidentiality as it relates to a lawyer's decision about taking protective action. Commissioner Arnett, Robert Burton and Carolyn McHugh each stated that the proposed comment was more helpful to attorneys than the model comment. Gary Sackett expressed concern that the Rules Subcommittee had not taken an intensive look at the comment. He noted that stylistically the comment varied from the other rules. Commissioner Arnett stated that he usually would agree with Mr. Sackett on this issue. However, the proposed comment draws so directly from the ABA Model and Formal Opinion that he is not concerned. Bill Hyde made a motion to change all references to "his or her" in the rule to the appropriate noun. Robert Burton seconded. The motion passed 8 to 0 with one abstention. Robert Burton moved to approve the comment for publication for comment. Commissioner Arnett seconded. The motion passed 9-0.

III. OTHER BUSINESS

The Committee scheduled its next meeting on March 17, 1997, 5:15 p.m. at the Administrative Office of the Courts.

IV. ADJOURN

There being no further business the meeting adjourned at 6:10 p.m.