

1 **Rule 8.4. Misconduct.**

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

3 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist
4 or induce another to do so, or do so through the acts of another;

5 (b) commit a criminal act that reflects adversely on the lawyer's honesty,
6 trustworthiness or fitness as a lawyer in other respects;

7 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

8 (d) engage in conduct that is prejudicial to the administration of justice;

9 (e) state or imply an ability to influence improperly a government agency or official
10 or to achieve results by means that violate the Rules of Professional Conduct or
11 other law; or

12 (f) knowingly assist a judge or judicial officer in conduct that is a violation of
13 applicable rules of judicial conduct or other law.

14 (2) Paragraph (1)(c) does not apply to a government lawyer who participates in a
15 lawful, covert governmental operation that entails conduct employing dishonesty,
16 fraud, misrepresentation, or deceit for the purpose of gathering relevant information.

17 **Comment**

18 [1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of
19 Professional Conduct or knowingly assist or induce another to do so through the acts of
20 another, as when they request or instruct an agent to do so on the lawyer's behalf.

21 Paragraph (a), however, does not prohibit a lawyer from advising a client concerning
22 action the client is legally entitled to take.

23 [1a] An act of professional misconduct under Rule 8.4(1)(b), (c), (d), (e), or (f) cannot be
24 counted as a separate violation of Rule 8.4(1)(a) for the purpose of determining
25 sanctions. Conduct that violates other Rules of Professional Conduct, however, may be
26 a violation of Rule 8.4(1)(a) for the purpose of determining sanctions.

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28 [2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as
29 offenses involving fraud and the offense of willful failure to file an income tax return.
30 However, some kinds of offenses carry no such implication. Traditionally, the
31 distinction was drawn in terms of offenses involving "moral turpitude." That concept
32 can be construed to include offenses concerning some matters of personal morality,
33 such as adultery and comparable offenses, that have no specific connection to fitness for
34 the practice of law. Although a lawyer is personally answerable to the entire criminal
35 law, a lawyer should be professionally answerable only for offenses that indicate lack of
36 those characteristics relevant to law practice. Offenses involving violence, dishonesty,
37 breach of trust or serious interference with the administration of justice are in that
38 category. A pattern of repeated offenses, even ones of minor significance when
39 considered separately, can indicate indifference to legal obligation.

40 [3] A lawyer who, in the course of representing a client, knowingly manifests by words
41 or conduct bias or prejudice based upon race, sex, religion, national origin, disability,
42 age, sexual orientation, or socioeconomic status, violates paragraph (1)(d) when such
43 actions are prejudicial to the administration of justice. Legitimate advocacy respecting
44 the foregoing factors does not violate paragraph (1)(d). A trial judge's finding that
45 peremptory challenges were exercised on a discriminatory basis does not alone
46 establish a violation of this rule.

47 [3a] The Standards of Professionalism and Civility approved by the Utah Supreme
48 Court are intended to improve the administration of justice. An egregious violation or a
49 pattern of repeated violations of the Standards of Professionalism and Civility may
50 support a finding that the lawyer has violated paragraph (1)(d).

51 [4] A lawyer may refuse to comply with an obligation imposed by law upon a good
52 faith belief that no valid obligation exists. The provisions of Rule 1.2(d) concerning a
53 good faith challenge to the validity, scope, meaning or application of the law apply to
54 challenges of legal regulation of the practice of law.

55 [5] Lawyers holding public office assume legal responsibilities going beyond those of
56 other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the
57 professional role of lawyers. The same is true of abuse of positions of private trust such
58 as trustee, executor, administrator, guardian, agent and officer, director or manager of a
59 corporation or other organization.

60 [6] This rule differs from ABA Model Rule 8.4.