

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

Law and Justice Center  
645 South 200 East  
Salt Lake City, UT  
June 4, 2012  
5:00 pm

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ATTENDEES

Steve Johnson, Chair  
John Bogart  
Tom Bruner  
Gary Chrystler  
Nayer Honarvar  
Judge Mark May  
Gary Sackett  
Stuart Schultz  
Paula Smith  
Kent Roche  
Paul Veasy  
Billy Walker  
Earl Wunderli  
Diane Abegglen, Staff

EXCUSED

Simon Cantarero  
Trent Nelson

ABSENT

Leslie Van Frank

1. WELCOME, REAPPOINTMENT OF COMMITTEE MEMBER AND APPROVAL  
OF MINUTES

Steve Johnson welcomed the members of the committee and congratulated Judge Mark May on his reappointment to the committee. Mr. Johnson asked if there were any corrections to the minutes of the March 26, 2012 meeting. Earl Wunderli moved to approve the minutes. Judge May seconded the motion and it passed unanimously.

2. UPDATE: RULES 1.15(d), 14-503 AND 14-533

Mr. Johnson gave the committee an update on Rules 1.15(d), 14-503 and 14-533. The Supreme Court approved the proposed amendments to 14-503 and 14-533 with an effective date of June 30, 2012.

Regarding Rule 1.15(d), Mr. Johnson reported that he met with the Supreme Court on April 25, 2012 and communicated the committee's views on the ethical obligation of

an attorney to provide a client with an accounting upon request. The Court agreed with the committee that Rule 1.4 (a)(4) answers its concerns. The assignment requires no further action by the committee.

3. CONTINUED DISCUSSION: RULE 14-504 (THE “SAFE HARBOR” RULE)

Mr. Johnson set the stage for the discussion by recapping the committee’s discussion at the March 26, 2012 meeting. He invited additional comments about the phrase “expressly approved” as used in Rule 14-504. After further analysis by the committee, Tom Brunner made a motion that the committee recommend to the Supreme Court that the phrase “expressly approved” be eliminated from the rule and that the following language be substituted:

The OPC shall not prosecute a Utah lawyer for violating the Utah Rules of Professional Conduct for conduct that is in compliance with an ethics advisory opinion that has not been withdrawn at the time of the conduct in question. No court is bound by an ethics opinion’s interpretation of the Utah Rules of Professional Conduct.

Gary Chrystler seconded the motion, which passed by a vote of 7 to 5. Mr. Johnson will prepare a letter to the Supreme Court encouraging the Court to adopt the substitute language. He will also attend the Court’s June 12, 2012 court conference to answer any questions the justices may have about the committee’s recommendation.

4. UPDATE: LAWYER ADVERTISING COMMITTEE

Stuart Schultz and Gary Sackett updated the committee on the Bar Commission’s lawyer advertising committee. At the present time, the lawyer advertising committee is trying to articulate with greater specificity what constitutes “false and misleading” advertising. The committee asked many questions of Mr. Schultz and Mr. Sackett and expressed the desire to review any lawyer advertising rule(s) that are presented to the Supreme Court in the future (likely as a petition from the Bar Commission).

5. OTHER BUSINESS

Mr. Johnson stated that there are no assignments or issues presently pending before the committee and that no future meeting will be scheduled at this time.