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**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
January 30, 2012
5:00 pm

ATTENDEES

Steve Johnson, Chair
John Bogart
Tom Bruner
Simon Cantarero
Gary Chrystler
Nayer Honarvar
Judge Mark May
Trent Nelson
Gary Sackett
Paula Smith
Kent Roche
Leslie Van Frank
Paul Veasy
Billy Walker
Earl Wunderli
Diane Abegglen, Staff

EXCUSED

Stuart Schultz

1. WELCOME, RE-INTRODUCTION OF MEMBERS PURSUANT TO RULE 11-101(4) AND APPROVAL OF MINUTES

Steve Johnson welcomed the members of the committee. Pursuant to the requirement of Rule 11-101(4) of the Supreme Court Rules of Professional Practice, Mr. Johnson asked each committee member to briefly disclose the general nature of his or her legal practice. Each member present at the meeting made such a disclosure.

Mr. Johnson asked if there were any corrections to the minutes of the November 28, 2011 meeting. John Bogart moved to approve the minutes. Leslie Van Frank seconded the motion and it passed unanimously.

2. FOLLOW UP DISCUSSION: PROPOSED RULE 14-503(A) AND (C)

Mr. Johnson informed the committee that the Supreme Court made one change to Rule 14-503(a) before sending it out for public comment. As amended by the Court, Rule 14-503(a) reads: "The Supreme Court shall designate one lawyer member as Committee chair and two lawyer members as Committee vice chairs." (Note: The previous version of the rule provided: "The Supreme Court shall designate one lawyer member as committee chair; one lawyer member as Committee vice chair; and one lawyer member as a second Committee vice chair.") After modifying the language as indicated, the Court asked the committee to determine whether there should be a hierarchy between vice chairs.

In anticipation of the committee's discussion, Mr. Johnson contacted Bruce Maak, chair of the Ethics & Discipline Committee, to ask his opinion on the question of shared authority between vice chairs. Mr. Maak responded that he does not favor a hierarchy. After considering the pros and cons of equal authority and a hierarchy, the committee concluded that a hierarchy between the two vice chairs is unnecessary. Although lack of a hierarchy creates the theoretical possibility of confusion as to authority, the practical potential for problems is minimal.

Paula Smith made a motion that the committee recommend to the Court that the two vice chairs of the Ethics & Discipline Committee have equal authority. John Bogart seconded the motion and it passed unanimously. Mr. Johnson will prepare a letter to Chief Justice Durham explaining the committee's rationale.

3. CONTINUED DISCUSSION: PROPOSED CHANGES TO SUPREME COURT RULES OF PROFESSIONAL PRACTICE 14-510(C), (D), (E) AND (F)

Mr. Johnson re-introduced the topic and invited committee members to comment on Bruce Maak's proposed revisions to Rule 14-510(c), (d), (e) and (f) which would authorize the chair of the Ethics and Discipline Committee to increase a sanction imposed by a screening panel and equalize the administrative appellate process by allowing OPC to appeal screening panel determinations and recommendations.

Gary Sackett stated that he does not support the proposed amendments because, among other things, they place too much power in the hands of the Ethics & Discipline Committee chair and OPC. He cautioned against making the Ethics & Discipline Committee chair the "czar" of screening panel uniformity. Kent Roche suggested that it is not unreasonable to have symmetry in the system and indicated his support of the proposed amendments. Billy Walker observed that the Supreme Court is the "czar" of lawyer discipline (not OPC or the chair of the Ethics & Discipline Committee), but reminded committee members that screening panel determinations never reach the Supreme Court for review under the current rules unless the respondent elects to file an appeal. Nayer Honarvar commented that if screening panel consistency is one of the objectives of the proposed amendments, additional

training for screening panel members might be a better approach. Paula Smith expressed support for the idea of additional training, but observed that people make mistakes even when they are well trained.

After much additional discussion, Mr. Roche made a motion that the proposed amendments to Rule 14-510(c), (d), (e) and (f) be approved and recommended to the Supreme Court for public comment. Paul Veasy seconded the motion, which passed by a vote of 10-4. Mr. Johnson will prepare a letter to Chief Justice Durham recommending the proposed amendments.

4. UPDATE: LAWYER ADVERTISING COMMITTEE

Mr. Sackett informed the committee that the Bar Commission's lawyer advertising committee is considering extensive changes to the lawyer advertising rule. Mr. Sackett will keep the committee informed as the work of the lawyer advertising committee progresses.

5. OTHER BUSINESS

None.

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.