LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

September 3rd, 1929.

Messrs.

Guy Cutlip,
Wewoka, Oklahoma.

Mark Goode,
Shawnee, Oklahoma.

Frank L. Warren,
Holdenville, Oklahoma.

George Trice,
Ada, Oklahoma.

Gentlemen:

In re: State Bar Act.

I am enclosing you the following:

1. Rules and regulations governing admission to the practice of the law in the State of Oklahoma. (See Section 24 of the State Bar Act.) The salient points of these rules are (a) those persons who had begun the study of the law on the effective date of the State Bar Act, June 22, 1929, are subjected to the same rules and regulations for admission that were in existence on that date except that they are required to register as law students; (b) those persons who began the study of the law on or subsequent to June 22, 1929, must be graduates of a high school and must also register; (c) those persons who shall begin the study of the law subsequent to June 22, 1930, must possess the general educational qualifications recommended

by the American Bar Association. These suggested rules were formulated with the idea that they were about the best we could get in the way of pre-educational and legal educational requirements. These rules must be approved by the Supreme Court before they can become effective.

2. Proposed rules of professional conduct of members of the State Bar. (See Section 25 of said State Bar Act.) These rules are practically the American Bar Association's canons of ethics, slightly redrafted to meet the situation in Oklahoma. A special committee of the American Bar Association spent some four or five years in the consideration of these rules. I am of the opinion that we could do no better even though we spent four or five years ourselves in formulating them. These rules must also be approved by the Supreme Court.

3. Rules governing the proceedings involving disbarment, etc. (See Section 25 of the State Bar Act.) Before I drafted these proposed rules I made a very careful study of the rules in force in California under its State Bar Act. The California rules were very effective in that State and withstood many assaults upon them through more than 100 disbarment proceedings. I have re-codified them so as to make them a little more logical in order, otherwise they are about the same. These rules are not required to be approved by the Supreme Court.

The first meeting of the Board of Governors will

be held on October 5th. This gives us only about 14 months within which to show results. I think we certainly should show some results before the next session of the Legislature so as to aid us in any attempt which may be made to repeal the Act. It is very desirable therefore that these proposed rules be put into effect at once. We can at least put the disbarment procedure in effect on October 5th and we should at least be able to recommend the rules on admission to the Bar and rules of professional conduct on that date so as to put it without the power of the members of the Supreme Court to say that any delay was occasioned by us.

You understand of course that I am not suggesting that my rules should be adopted. I am forwarding these various rules to each of you so that the one of you who is elected to the Board of Governors may inform yourself during the coming month and be able to make suggestions, etc., at the organization meeting.

Yours very truly,

Edgar A. deM

deM-ME

# RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR

# OF OKLAHOMA

1.

These rules shall be cited or referred to as "Rules of Professional Conduct of the State Bar of Oklahoma."

2.

The enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

3. The Duty of the Lawyer to the Courts.

It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

4. The Selection of Judges.

It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selections of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

5. Attempts to Exert Personal Influence on the Court.

Marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations of the parties subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

6. When Counsel for an Indigent Prisoner.

A lawyer assigned as counsel for an indigent prisoner ought not to

ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

7. The Defense or Prosecution of Those Accused of Crime.

It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution if not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

8. Adverse Influences and Conflicting Interests.

It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connected with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

9. Professional Colleagues and Conflicts of Opinion.

A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer, are unworthy of those who should be brethren at the Bar; but, nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

10. Advising Upon the Merits of a Client's Cause.

A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admitof fair adjustment, the client should be advised to avoid or to end the litigation.

11. Negotiations With Opposite Party.

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or comprise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

12. Acquiring Interest in Litigation.

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

13. Dealing With Trust Property.

Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

14. Fixing the Amount of the Fee.

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in

itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

15. Contingent Fees.

Contingent fees,being sanctioned by law, are recognized as proper.

16. Suing a Client for a Fee.

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

17. How Far a Lawyer May Go in Supporting a Client's Cause.

Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

18. Restraining Clients from Improprieties.

A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrong-doing the lawyer should terminate their relation.

19. Ill Feeling and Personalities Between Advocates.

Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel

in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

20. Treatment of Witnesses and Litigants.

A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

21. Appearance of Lawyer as Witness for His Client.

When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

22. Newspaper Discussion of Pending Litigation.

Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An ex parte reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any ex parte statement.

23. Punctuality and Expedition.

It is the duty of the lawyer not only to his client, but also to the Courts and to the public to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

24. Candor and Fairness.

The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administraction of justice.

25. Attitude Toward Jury.

All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

26. Right of Lawyer to Control the Incidents of the Trial.

As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

27. Taking Technical Advantage of Opposite Counsel; Agreements With Him.

A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

28. Professional Advocacy Other Than Before Courts.

A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed

to the reason and understanding, to influence action.

29. Advertising, Direct or Indirect.

The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter or personal taste or local custom, and sometimes of convenience, is not per se improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

30. Stirring Up Litigation, Directly or Through Agents.

It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

31. Upholding the Honor of the Profession.

Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

32. Justifiable and Unjustifiable Litigations.

The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the Court as to the legal merits of his client's claim. His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

33. Responsibility for Litigation.

No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

34. The Lawyer's Duty in Its Last Analysis.

No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advise involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

35. Partnerships - Names.

Partnerships among lawyers for the practice of their profession are very common and are not to be condemned. Certain courts require that lawyers practicing before them shall appear individually and not as members of partnerships. In the formation of partnerships care should be taken not to violate any law locally applicable; and where partnerships are formed and permitted between lawyers who are not all admitted to practice in the local courts, care should be taken also to avoid any misleading name or representation which would create a false impression as to the professional position or privileges of the member not locally admitted. In the formation of partnerships for the practice of law, no person should be admitted who is not a member of the legal profession, duly authorized to practice, and amenable to professional discipline. No person

should be held out as a practitiorer or member who is not so admitted. In the selection and use of a firm name, one not admitted to practice in the local courts should not be named, lest such use of his name should mislead as to his professional position or privileges. And no false or assumed or trade name should be used to disguise the practitioner or his partnership. The continued use of the name of a deceased or former partner is or may be permissible by local custom, but care should be taken that no imposition or deception is practiced through this use. If a member of the firm becomes a judge, his name should not be continued in the firm name, as it naturally creates the impression that an improper relation or influence is continued or possessed by the firm.

Partnerships between lawyers and members of other professions or non-professional persons should not be formed or permitted where a part of the partnership business consists of the practice of law.

36. Division of Fees.

No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility. But the established custom of sharing commissions at a commonly accepted rate, upon collections of commercial claims between forwarder and receiver, though one be a lawyer and the other not (being a compensation for valuable services rendered by each), is not condemned hereby, where it is not prohibited by statute.

37. Intermediaries.

The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. Charitable societies rendering aid to the indigent are not deemed such intermediaries.

A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs.

The established custom of receiving commercial collections through a lay agency is not condemned hereby.

38. Retirement From Judicial Position or Public Employment.

A lawyer should not accept employment as an advocate in any matter upon the merits of which he has previously acted in a judicial capacity.

A lawyer, having once held public office or having been in the public employ, should not after his retirement accept employment in connection with any matter which he has investigated or passed upon while in such office or employ.

39. Confidences of a Client.

The duty to preserve his client's confidences outlasts the lawyer's employment, and extends as well to his employees; and neither of them should accept employment which involves the disclosure or use of these confidences, either for the private advantage of the lawyer or his employees or to the disadvantage of the client, without his knowledge and consent, and even though there are other available sources of such information. A lawyer should not continue employment when he discovers that this obligation prevents the performance of his full duty to his former or to his new client.

If a lawyer is falsely accused by his client, he is not precluded from disclosing the truth in respect to the false accusation. The announced intention of a client to commit a crime is not included within the confidences which he is bound to respect. He may properly make such disclosures as to prevent the act or protect those against whom it is threatened.

40. Compensation, Commissions and Rebates.

A lawyer, should accept no compensation, commissions, rebates or other advantages from others without the knowledge and consent of his client after full disclosure.

41. Witnesses.

Compensation demanded or received by any witness in excess of statutory allowances should be disclosed to the court and adverse counsel. If the ascertainment of truth requires that a lawyer should seek information from one connected with or reputed to be biased in favor of an adverse party, he is not thereby deterred from seeking to ascertain the truth from such person in the interest of his client.

42. Newspapers.

A lawyer may with propriety write articles for publication in which he gives information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights.

43. Discovery of Imposition and Deception.

When a lawyer discovers that some fraud or deception has been practiced, which has unjustly imposed upon the court or a party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

44. Expenses.

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expenses of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.

45. Professional Card.

The simple professional card mentioned in Canon 27 may with propriety

contain only a statement of his name (and those of his lawyer associates), profession, address, telephone number, and special branch of the profession practiced. The insertion of such card in reputable law lists is not condemned and it may there give references or name clients for whom the lawyer is counsel, with their permission.

46. Withdrawal From Employment as Attorney or Counsel.

The right of an attorney or counsel to withdraw from employment, once assumed, arises only from good cause. Even the desire or consent of the client is not always sufficient. The lawyer should not throw up the unfinished task to the detriment of his client except for reasons of honor or self-respect. If the client insists upon an unjust or immoral course in the conduct of his case, or if he persists over the attorney's remonstrance in presenting frivolous defenses, or if he deliverately disregards an agreement or obligation as to fees or expenses, the lawyer may be warranted in withdrawing on due notice to the client, allowing him time to employ another lawyer. So also when a lawyer discovers that his client has no case and the client is determined to continue it; or even if the lawyer finds himself incapable of conducting the case effectively. Sundry other instances may arise in which withdrawal is to be justified. Upon withdrawal from a case after a retainer has been paid, the attorney should refund such part of the retainer as has not been clearly earned.

47.

These rules are applicable to all branches of the legal profession; specialists in particular branches are not to be considered as exempt from the application of these principles.

48.

Nothing in these rules is intended to limit or supersede any provision of law relating to the duties and obligations of attorneys or the consequences of a violation thereof.

ORDERED:

That the following shall be considered sufficient causes for disbarment or suspension of, or for the imposition of other disciplinary measures upon, a person who has been admitted to the practice of the law in the State of Oklahoma:

1. That he has ceased to possess that good moral character prerequisite to admission to the practice of the law.

2. That he is guilty of the commission of an act, though disassociated from his duties to the court or to his clients, which renders him an unfit, unsafe and untrustworthy person to be entrusted with the powers, duties and responsibilities of an attorney and counselor at law, even though the commission of such act be not punishable as a crime.

3. That his course of conduct, though disassociated from his duties to the court or to his clients, is such as to render him an unfit, unsafe, and untrustworthy person to be entrusted with the powers, responsibilities and duties of an attorney and counselor at law.

4. That he has been guilty of the violation of the oath taken by him upon his admission to the Bar.

5. That he has represented to any person, either by writing or word or deed, or otherwise, that he has political or personal influence with any court or any member thereof.

6. That he has been convicted in any court of record of the United States, or of any state or territory of the United States, or of the District of Columbia, of a felony or a misdemeanor involving moral turpitude.

7. That he is guilty of a willful disobedience or violation of any order of the court requiring him to do or forbear any act connected with or in the line of his profession.

8. That he has been guilty of a willful violation of any of the duties of an attorney or counselor.

9. That he has been guilty of the willful breach of any of the Rules of professional conduct of the State Bar of Oklahoma.

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GEORGE S. RAMSEY
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September 7th, 1929.

Messrs.

Guy Cutlip, Attorney,
Wewoka, Oklahoma.

Marke Goode, Attorney,
Shawnee, Oklahoma.

Frank L. Warren, Attorney,
Holdenville, Oklahoma.

George Trice, Attorney,
Ada, Oklahoma.

Gentlemen:

I am enclosing you herewith copy of proposed order prescribing the causes for disbarment, etc. (Section 25, State Bar Act.) It is not necessary that this order be approved by the Supreme Court.

Having reference to Rules 1, 2, and 3, I hasten to say that I fully understand that neither the Board of Governors nor the Supreme Court are to be constituted the guardians of the private morals of practising attorneys, and that I fully understand, in the language of the dissenting opinion of Justice Field in Ex Parte Wall, 27 L. Ed. 568, that

> "Many persons, eminent at the Bar, have been chargeable with moral delinquencies which were justly a cause of reproach to them; some have been frequenters of the gaming table; some have been dissolute in their habits; some have been indifferent to their pecuniary obligations; some have wasted estates in riotous living; some have been engaged in broils and quarrels disturbing the public peace; but for none of these things could the court interfere and summon the attorney to appear, and if his conduct should not be satisfactorily explained, proceed to disbar him."

and that the true rule is

> "It is only for that moral delinquency which consists in a want of integrity and trustworthiness, and renders him an unsafe person to manage

> the legal business of others, that the courts can interfere and summon him before them. He is disbarred in such case for the protection both of the court and of the public."

I think you will find that Rules 2 and 3 are so drawn as not to lay as a cause for disbarment that an attorney occasionally gets tight, etc. I myself would not stand for any such rule.

Rule 3 is designed to meet this situation: I have known a member of the Bar who has owned and conducted an assignation house with impunity; I have also known lawyers who have been silent partners in the bootlegging industry, etc. This class of persons should be eliminated from the practice.

As to Rule 2. Rule 2 you will note does not refer to "course of conduct" but refers to the commission of an act. This rule is designed to meet the exceptional case referred to in the Welcome case, supra -- that is to say, where a lawyer commits such an outrageous act as to forfeit the respect of all right-minded people. I have in mind an instance in this county where a lawyer was indicted for forging a bond and also for embezzlement in connection with certain moneys placed in the hands of the clerk as a cash bond. He was indicted upon both counts but with great complacency pleaded the statute of limitations and was discharged.

I have studied the case very carefully during the past week and am firmly convinced that rules 1, 2, and 3 are not only proper but are necessary.

As to Rule 1, see:

> 6 C. J., p. 584, par. 41;
> Nelson v. Commonwealth, 109 S. W. 337;
> State v. Mosher, 103 N. W. 111;
> In re Dampier, 267 Pac. 453;
> In re McCue, 261 Pac. 350;
> In re Hilton, 158 Pac. 691;
> In re Smith, 85 Pac. 584;
> Diffen v. Commonwealth, 271 S. W. 555;
> Christe v. Commonwealth, 198 S. W. 933;
> State v. Peck, 91 Atl. 274;
> In re Stolen, 214 N. W. 381;
> In re Richter, 204 N. W. 491;
> State v. Rohrig, 139 N. W. 908;
> People v. Chicago, etc., 116 N. E. 189.

As to Rules 2 and 3:

Thornton on Attorneys at Law, Vol. 2, Sec. 851;
2 R. C. L. Sec. 192;
Dissenting opinion of Justice Field in
Ex Parte Wall, supra;
In re Dampier, supra;
In re Baum, 186 Pac. 930;
In re Platz, 132 Pac. 390;
In re Welcome, 58 Pac. 45;
State v. McClaugherty, 10 S. E. 407;
Underwood v. Commonwealth, 105 S. W. 151;
State v. Peck, supra;
In re Moore, 81 Atl. 703;
In re Durant, 67 Atl. 497;
People v. Chicago, supra;
People v. Healy, 82 N. E. 612;
In re Wilson, 100 Pac. 635;
Daleno's Case, 42 Am. Rep. 555.

As to Rule 4: This is quite a common cause in many of the states.

As to Rule 5: This rule is peculiarly applicable to this state and has been requested by several Senators and members of the House. I can see no harm in it. On the other hand it gives the judge of a court an opportunity to protect himself by bringing the matter before an authoritative body.

Rules 6, 7, and 8, are practically the present law.

Rule 9 is a compliance with Section 29 of the State Bar Act and in my judgment is a very good rule.

Coming back to Rules 1, 2, and 3, lawyers are broad minded in their relations to each other. No man need fear that he will be disbarred or disciplined under these rules for an unjust cause when he takes into consideration that (1st) the administrative committee, after a hearing, must recommend disbarment, (2nd) that the Board of Governors must approve and concur in the recommendation, and (3rd) there exists an appeal to the Supreme Court.

I think if possible we should make this order, or a similar one, at the October 5th meeting and I am sending a copy to you so that you may be able to make such suggestions as occur to you.

Yours very truly,

deM-E

(COPY)

C. H. Mauntel
F. B. H. Spellman

MAUNTEL & SPELLMAN
Lawyers
Alva, Oklahoma.

September
Twenty-fifth,
1 9 2 9.

Mr. Edgar A. de Meules,
Philtower Building,
Tulsa, Oklahoma.

Dear Sir:

Personal

I have been going over with very much interest all of your suggestions to be offered at our first meeting, and wish to state that I am thoroughly in accord with all of your ideas.

I am

Very respectfully yours,

(Signed) F. B. H. SPELLMAN

FBHS/N

LAW OFFICES

HAYES & RICHARDSON

Suite 1112 Colcord Building
Telephone 2-0158

OKLAHOMA CITY, OKLAHOMA.

S.W.Hayes
D.A.Richardson

H.Parker Sharp
C.D. Ellison
Lee G. Gill
J.H.Vossbrink

Sept. 9, 1929.

Mr. Edgar A. de Meules,
17th Floor Philtower Building,
Tulsa, Oklahoma.

Dear Sir:

I have received your letter of the 5th instant enclosing your proposed rules and regulations governing the admission to the practice of law in the State of Oklahoma, and I have gone over your proposed rules with care. Insofar as the substance of the rules is concerned, I have no criticism to make or suggestions to offer. I think the proposed rules are excellent, and that they adequately cover every contingency which can now be anticipated.

Were it not for the fact that your rules provide for registration as law students of those intending to study law, and that your rules prescribe higher educational qualifications than have been required heretofore, I would be in favor of making no distinction between those who had begun the study of law on or prior to the effective date of the State Bar Act and those commencing the study of law subsequently. However, inasmuch as there were, on the date the Act became effective and prior to the adoption of the rules, students who were studying law with the expectation of being admitted to the Oklahoma Bar, and whom the general rules would cut out on account of their educational qualifications, I think it proper, and probably necessary, that a distinction be made between them and those subsequently commencing the study of law.

I am returning you the copy of the proposed rules and regulations which you sent me with notations thereon of such changes as I propose. You will observe that none of them are substantial, but they are all matters of verbiage or punctuation. (Note, these corrections appear in "Corrected" copy sent you. de M.)

Very truly yours,

(Signed) D.A. RICHARDSON.

DAR:HDB
Encl.

LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

September 9, 1929.

Guy Cutlipp, Esq.,
Wewoka, Oklahoma;
Mark Goode, Esq.,
Shawnee, Oklahoma;
George Price, Esq.,
Ada, Oklahoma;
Frank L. Warren, Esq.,
Holdenville, Okla.

Gentlemen:

See Sections 22 and 23
of the State Bar Act.

At the meeting to be held on October 5th, I will propose that an order, a copy of which is herewith enclosed, be entered.

Yours very truly,

Edgar A. de Meules

deM.CB.
Enc.

ORDERED, that a Committee of seven (7) members of The State Bar of Oklahoma, one of whom shall be a member of the Board of Governors, to be known as the "Corporate Code Committee of The State Bar of Oklahoma", be, and it is hereby established. It shall be the duty of this Committee to prepare and transmit to the Board of Governors on or before December 1st, 1930, a proposed comprehensive Code of the corporation law of the State of Oklahoma.

BE IT FURTHER ORDERED, that the following be, and they are, hereby appointed members of the Corporate Code Committee of The State Bar of Oklahoma, to serve at the will of the Board of Governors, to-wit:

Honorable _ _ _ _ _ _ _ _ _ _, a member of The State Bar of Oklahoma;

Honorable _ _ _ _ _ _ _ _ _ _, a member of The State Bar of Oklahoma;

Honorable _ _ _ _ _ _ _ _ _ _, a member of The State Bar of Oklahoma;

Honorable _ _ _ _ _ _ _ _ _ _, a member of The State Bar of Oklahoma;

Honorable _ _ _ _ _ _ _ _ _ _, a member of The State Bar of Oklahoma;

and

Honorable _ _ _ _ _ _ _ _ _ _, a member of the Board of Governors of The State Bar of Oklahoma.

BE IT FURTHER ORDERED, that said Committee shall select one of its members as Chairman, and one of its members as Vice-Chairman; the Secretary of the Board of Governors shall be ex-officio Secretary of the Committee. The Committee shall meet upon call of the Chairman, or in his absence or inability to act, upon the call of the Vice-Chairman.

The office of
THE ATTORNEY GENERAL
of the
STATE OF OKLAHOMA
Oklahoma City

(Seal)

Edwin Dabney

Assistants
J. Berry King
V. P. Crowe
W. C. Lewis
W. L. Murphy
Fred Hansen
P. K. Morrill
Randell S. Cobb
Smith C. Matson
J. H. Lawson
Ralph G. Thompson
W. O. Gordon

September 10th, 1929.

Hon. Edgar A. de Meules,
Member Board of Commissioners of the State Bar,
Exchange National Bank Building,
Tulsa, Oklahoma.

Dear Sir:

The Attorney General acknowledges receipt of your letter of the 22nd ultimo, wherein you quote Sections 3, 4 and 6 of the State Bar Act, same being Chapter 264, Session Laws of 1929, and a part of Section 4093, Compiled Oklahoma Statutes 1921.

You propound the following questions:

"A. Are Judges of courts of record entitled to be placed on the roll of the State Bar as active members, with the power to vote, if they so desire?

"B. Are Judges of courts of record 'now entitled to practice law in this state,' entitled to be placed on the inactive roll if they so request, or should they arbitrarily be placed upon the inactive roll?

"C. Do the provisions of Section 45 of the State Bar Act apply to Judges of courts of record?"

Chapter 264, supra, is practically the same as the State Bar Act of California passed by the Legislature of that State in 1927. The California Act has been construed by the Supreme Court of that state in the case of STATE BAR OF CALIFORNIA VS SUPERIOR COURT OF LOS ANGELES, 278 Pac. 432.

After reviewing the State Bar Act of California somewhat at length in the case cited the Supreme Court of California used the following language upon page 439 of the quoted volume:

> "The duly elected and qualified judges of the courts of record in this state who were such at the time said act became effective, and who have since become and are such judicial officers, were and are not, under the inhibition of section 22 of article 6 of the state Constitution, entitled to practice law in this state during their and each of their continuance in office, and hence under the express provisions of said State Bar Act have not become, and during said period are not, members of the state bar of California, and hence are not subject to the jurisdiction, control, and processes conferred upon said corporation and the governing board or other officers thereof by the scope and provisions of said act."

The judges of courts of record in California are precluded from engaging in the practice of law during their terms of office by constitutional provision of that State, and judges of courts of record in Oklahoma are precluded from engaging in the practice of law during their terms of office by reason of Section 4093, supra.

The Attorney General therefore adopts the decision of the California court cited, and holds as follows:

FIRST: That judges of courts of record during their terms of office are not entitled to be placed on the roll of the State Bar as active members.

SECOND: That such judges are not entitled to be placed on the inactive roll of the State Bar upon their request or by the Board of Governors upon its own motion.

THIRD: That inasmuch as Section 45, Chapter 264, supra, applies only to active and inactive members of the Bar, that judges of courts of record not being members of the State Bar during their term of office, the provisions of said Section do not apply to them.

Very truly yours,

FOR THE ATTORNEY GENERAL,

(Signed) W. C. Lewis,
Assistant Attorney General.

ob-st

(Endorsed):
APPROVED IN CONFERENCE 9-10-29

LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

September 17, 1929.

Mr. Guy Cutlip,

Wewoka, Oklahoma.

Dear Sir:

At the suggestion of Mr. D. A. Richardson of Oklahoma City, I have amplified the fifth ground for disbarment. The change will be noted by comparison.

I am enclosing corrected copy.

Very truly yours,

Encl.
de/R

(CORRECTED)

ORDERED:

That the following shall be considered sufficient causes for disbarment or suspension of, or for the imposition of other disciplinary measures upon, a person who has been admitted to the practice of the law in the State of Oklahoma:

1. That he has ceased to possess that good moral character prerequisite to admission to the practice of the law.

2. That he is guilty of the commission of an act, though disassociated from his duties to the court or to his clients, which renders him an unfit, unsafe and untrustworthy person to be entrusted with the powers, duties and responsibilities of an attorney and counselor at law, even though the commission of such act be not punishable as a crime.

3. That his course of conduct, though disassociated from his duties to the court or to his clients, is such as to render him an unfit, unsafe, and untrustworthy person to be entrusted with the powers, responsibilities and duties of an attorney and counselor at law.

4. That he has been guilty of the violation of the oath taken by him upon his admission to the Bar.

5. That he has represented to any person, either by writing or word or deed, or otherwise, that he has political or personal influence with any court, commission or tribunal exercising judicial or quasi judicial powers or charged by law with the performance of any duties requiring the exercise of discretion, or with the Attorney General or any of his assistants or with the county attorney of any county.

6. That he has been convicted in any court of record of the United States, or of any state or territory of the United States, or of the District of Columbia, of a felony or a misdemeanor involving moral turpitude.

7. That he is guilty of a willful disobedience or violation of any order of the court requiring him to do or forbear any act connected with or in the line of his profession.

8. That he has been guilty of a willful violation of any of the dities of an attorney or counselor.

9. That he has been guilty of the willful breach of any of the Rules of professional conduct of the State Bar of Oklahoma.

Law Offices
HAYES & RICHARDSON
Suite 1112 Colcord Building
Telephone 2-0158
Oklahoma City, Oklahoma.

S.W.Hayes
D.A.Richardson
---
H.Parker Sharp
C. D. Ellison
Lee G. Gill
J. H. Vossbrink

Sept. 16, 1929.

Mr. Edgar A. de Meules,
17th Floor Philtower Bldg.,
Tulsa, Okla.

Dear Sir:-

I have received and approve the proposed order prescribing the causes for disbarment. I suggest, however, that the 5th ground for disbarment be broadened somewhat so as to make ground for disbarment not only the representation by an attorney that he has political or personal influence with any court or any member thereof, but also his representation that he has political or personal influence with any judge of any court, commission or tribunal exercising judicial or quasi judicial powers, or with any county attorney. A case has recently arisen in Oklahoma City in which it is charged that an attorney practiced influence with the County Attorney, and I understand that the case is to be referred to the Board of Governors of the State Bar. I would suggdst that the 5th clause be modified so as to read as follows:

> "5. That he has represented to any person, either by writing or word or deed, or otherwise, that he has political or personal influence with any court, commission or tribunal exercising judicial or quasi judicial powers or charged by law with the performance of any duties requiring the exercise of discretion, or with the Attorney General or any of his assistants or with the county attorney of any county."

Very truly yours,

DAR:HDB. (Signed) D. A. RICHARDSON

LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

September 23, 1929.

Mr. Guy Cutlip,

Wewoka, Oklahoma.

Dear Sir:

I have heretofore proposed that as the rules of conduct provided for by Section 25, we adopt practically the canons of legal ethics adopted by the American Bar Association. I find that they have received the approval at least of one Supreme Court. See Ringen vs. Ramer, 104 N. E., 1023;

> "Those canons (adopted by the Illinois State Bar Association and the American Bar Association) are not a binding obligation and are not in force as such by the Courts, but they constitute a safe guide for professional conduct in the cases to which they apply."

See also Hunter vs. Troup, 146 N. E., 321. Of course if we adopt the canons of the American Bar Association as rules of conduct under Section 25, they will become binding.

Very truly yours,

Edgar A. de Meules

de/R

LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

December 10, 1929.

Mr. C. Guy Cutlip,
Attorney at Law,
Shawnee, Oklahoma.

Dear Guy:

I have yours of recent date enclosing copy of a letter to John L. Good. Your letter states the situation exactly.

Keep the ball rolling. We are either going to amount to something or we aren't. As far as I am concerned, we want to amount to something.

Very truly yours,

Edgar A. de Meules

de/R

LAW OFFICES OF
RAMSEY, de MEULES & LOGAN
17TH FLOOR PHILTOWER BUILDING
TULSA, OKLAHOMA

GEORGE S. RAMSEY
EDGAR A. de MEULES
GARRETT LOGAN

December 10, 1929.

Mr. Guy Cutlip, Attorney,
Shawnee, Oklahoma.

Dear Sir:

Section 23 of the State Bar Act provides that the Board shall have power to aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice, and Section 22 provides that the Board shall have power to appoint such Committee as it may deem necessary.

Either at the December meeting or at the January meeting, I will propose the adoption of two orders, a copy of each of which is enclosed herewith.

Very truly yours,

Edgar A. de Meules

Encl.
de/R

ORDERED:

A committee of nine members of the State Bar of Oklahoma, to be known as the "Judicial Committee" is hereby established. It shall be composed of one Justice of the Supreme Court, two District Judges of different judicial districts, each of whom shall have served in such capacity for at least four years previous to his appointment, four lawyers, each of whom shall have been admitted to practice for not less than ten years previous to his appointment, the chairman of the Judicial Committee No. 1 of the House of Representatives, and the Chairman of Judicial Committee No. 1 of the Senate. Of the members first appointed, one judge and two lawyers shall serve for the term of two years, and one judge and two lawyers for a term of four years. It shall select one of its members as chairman and one of its members as vice chairman; the secretary of the Board of Governors shall be ex officio secretary of the Council. It shall meet quarterly and more frequently if necessary, upon call of the Chairman.

It shall be the continuous duty of the Judicial Council to survey and study the judicial department of the state, the volume and condition of business in the courts, whether of record or not, the methods and rules of procedure therein, the time elapsing between the initiation of litigation and the conclusion thereof, and the condition of dockets as to unfinished business at the closing of terms; to receive and consider suggestions from judges, members of the bar, public officials and citizens concerning faults in the administration of justice, and remedial rules and practices; to recommend methods of simplifying civil and criminal procedure and the appelate practice, expediting the transaction of judicial business and eliminating unnecessary delays therein and correcting faults in the administration of justice; to submit from time to time to the courts or judges thereof such suggestions as to changes in rules and methods of civil and criminal procedure as may be deemed by the Council to be beneficial. It shall submit to the Board of Governors on or before December 1st of each year after the year 1929 a written report of the work of the Council, the facts ascertained, the conditions of business in the courts, conditions found to be defeating or deferring the administration of justice, with recommendations concerning needed changes in the organization of the judicial department, any rules and methods in civil and criminal procedure and in appelate procedure and pertinent legislation; such report shall be printed and copies thereof distributed to all members of the State Bar, to all members of the legislature and judges of the Supreme Court, District Court, Superior Court, and County Court.

ORDERED:

A committee of eleven members of the State Bar of Oklahoma, to be known as the "Judicial Committee" is hereby established. It shall be composed of one Justice of the Supreme Court, one Judge of the Criminal Court of Appeals, three District Judges of different judicial districts, each of whom shall have served in such capacity for at least four years previous to his appointment, four lawyers, each of whom shall have been admitted to practice for not less than ten years previous to his appointment, one of whom shall be a member of the Board of Governors of The State Bar, the chairman of the Judicial Committee No. 1 of the House of Representatives, and the Chairman of Judicial Committee No. 1 of the Senate. Of the members first appointed, one judge and two lawyers shall serve for the term of two years, and one judge and two lawyers for a term of four years. It shall select one of its members as chairman and one of its members as vice chairman; the secretary of the Board of Governors shall be ex officio secretary of the Council. It shall meet quarterly and more frequently if necessary, upon call of the Chairman.

It shall be the continuous duty of the Judicial Council to survey and study the judicial department of the state, the volume and condition of business in the courts, whether of record or not, the methods and rules of procedure therein, the time elapsing between the initiation of litigation and the conclusion thereof, and the condition of dockets as to unfinished business at the closing of terms; to receive and consider suggestions from judges, members of the bar, public officials and citizens concerning faults in the administration of justice, and remedial rules and practices; to recommend methods of simplifying civil and criminal procedure and the appellate practice, expediting the transaction of judicial business and eliminating unnecessary delays therein and correcting faults in the administration of justice; to submit from time to time to the courts or judges thereof such suggestions as to changes in rules and methods of civil and criminal procedure as may be deemed by the Council to be beneficial. It shall submit to the Board of Governors on or before December 1st of each year after the year 1929 a written report of the work of the Council, the facts ascertained, the conditions of business in the courts, conditions found to be defeating or deferring the administration of justice, with recommendations concerning needed changes in the organization of the judicial department, any rules and methods in civil and criminal procedure and in appellate procedure and pertinent legislation; such report shall be printed and copies thereof distributed to all members of the State Bar, to all members of the Legislature and judges of the Supreme Court, District Court, Superior Court, and County Court.

FURTHER ORDERED:

That the following be and they are hereby appointed members of the Judicial Council for the period of two years:

1. Honorable _____, a Justice of the Supreme Court of Oklahoma.

2. Honorable _____, a Justice of the Criminal Court of Appeals of the State of Oklahoma.

3. Honorable _____, a District Judge.

4. Honorable _____, a District Judge.

5. Honorable _____, a District Judge.

6. Honorable _____, a member of The State Bar.

7. Honorable _____, a member of The State Bar.

8. Honorable _____, a member of The State Bar.

9. Honorable _____, a member of the Board of Governors of the State Bar.

10. Chairman of the Judicial Committee No. 1 of the House of Representatives.

11. Chairman of the Judicial Committee No. 1 of the Senate.

IT IS FURTHER ORDERED:

That each of the members of the Judicial Council before entering upon the discharge of his duties shall take and subscribe the oath set forth in Section 1 of Article XV of the Constitution, which oath shall be filed with the Secretary of the Board of Governors.

April 19th, 1930.

Hon. Edgar A. DeMeules,
Attorney at Law
TULSA, Oklahoma

Dear Edgar:-

I received your response, also I am advised by Keaton that both yourself and Judge Ramsey have asked for open hearing. That is well, no more publicity can be had than that already, and now the remedy is to correct the false impressions. This cannot bedone with those who want to believe them, absolute proof will not avail, but with those who are worth while a complte traverse will be proper thing.

My advise was sound to the board, we should have ignored the whole matter and not provided a forum within which to allow Patrick to preach. But that is past now. Netiher must we allo the board to fall into the habit of defending itself too much and allowing other and really more important business to lapse.

A public hearing and a complete exhoneration is only a formal matter after all, those who want to believe bad things will continue to do so, and those who dilent want to will be provided with material to refute such charges, that is all.

With best wishes, I am,

Yours Respectfully,

C. Guy Cutlip

# THE STATE BAR OF OKLAHOMA

OFFICE OF THE BOARD
OF GOVERNORS

COMMERCE EXCHANGE BUILDING

OKLAHOMA CITY, OKLA.



Tulsa, Oklahoma,
April 23rd, 1930

Mr. J. R. Keaton, President,
The State Bar of Oklahoma,
Oklahoma City, Oklahoma,

Dear Sir:

I consider it would be a gross impropriety for me to sit with the Board of Governors until the charges pending against me have been disposed of.

I have in mind several matters, however, to which attention should be given:

(1) The administrative committee for this district has not been functioning as it should. Next to Oklahoma City it has one of the heaviest dockets. All complaints pending before it should be disposed of either by dismissal where without merit, or by proceeding where with merit.

(2) The same thing is true of the administrative committee twenty-two. It has several important matters before it.

(3) I do not remember the date of the filing of the appeal in the prohibition case for Miami. Under the Supreme Court rules

the brief should be filed within forty (40) days. I do not see how this case can be a test case as to the constitutionality of the Act in any way. Section 3 of the Act provides that nothing contained in the Act shall be construed to prohibit the suspension, etc, of members of the bar for causes existing at the effective date of the Act. Section 26 provides that the Board of Governors shall have power to disbar for any of the cases now existing under the law of the State of Oklahoma. In other words, this particular proceeding is for disbarment on grounds prescribed by the Legislature and not on grounds provided for by the order of the Board of Governors. There is, therefore, in this case no question as to the power of the Legislature to confer upon the Board of Governors the right to define the grounds of disbarment, and, of course, the question as to whether or not the Legislature had power to delegate the right to the Board of Governors to prescribe rules for admission to the bar is certainly not in this case. Even if it were Section 50 of the Act would save the point.

Section 1 of Article 7 of the State Constitution gives the Legislature the power to vest the Board of Governors with power to try the case. This will not militate against the argument that the Board is merely an arm of the Supreme Court.

The only question in the case that I can see is whether or not there has been a conviction within the meaning of the statutes heretofore in force, the case being on appeal.

(4) I think it very vital that each administrative committee dispose of all complaints before it, either by dismissal or by proceeding, at the earliest possible date. So far as the Tulsa and Sapulpa districts are concerned, I think the Executive Committee should arrange for a meeting with the administrative committees, and urge upon them the importance of the matter.

(5) I think it of no small importance that Mr. Spellman should incorporate as many of the reports of the meetings of the Board of Governors in the next and subsequent issues of the Oklahoma State Bar Journal as possible, so as to inform the bar of the State as to the immense amount of work that has been done. I regard the Oklahoma State Bar Journal as one of the most effective steps we have taken, and Mr. Spellman is to be congratulated in the matter.

Yours very truly,

Edgar K. de Meules

de.y

February 5th, 1931.

Mr. D. A. Richardson,
Oklahoma City,

Mr. H. G. McKeever,
Enid,

Mr. Alger Melton,
Chickasha,

Mr. F. B. H. Spellman,
Alva,

Mr. Vern E. Thompson,
Miami,

Mr. Allen Wright,
McAlester,

Mr. W. E. Utterback,
Durant,

Mr. H. C. Potterf,
Ardmore,

Mr. C. C. Spillers,
Tulsa,

Mr. Chas. A. Dickson,
Okmulgee,

Mr. C. Ury Cutlip,
Wewoka,

Mr. Sam Massingale,
Cordell,

Gentlemen:

Pursuant to the agreement reached at the conference with the members of the Supreme Court, I am enclosing herewith suggested amendments to the rules for admission to the bar. I wish you would each give special attention to Rule 18 and see what you can do with it.

Yours very truly,

Edgar A. deMarbles

de.y

ORDERED that Section 4 of Rule 2 of the Rules and Regulations Governing Admission to the Practice of Law in the State of Oklahoma be and it is hereby amended by adding thereto a semi-colon after the word application and by adding after the said semi-colon the following:

> PROVIDED, HOWEVER, that should the applicant so request in his application for admission, the Committee, in the event the application and accompanying papers exhibit a prima facie right to admission upon motion, may, in its discretion, recommend to the Supreme Court that the applicant be given a temporary license to practice law for a period not to exceed sixty days from the date of the filing of the application. No more than one temporary license shall ever be granted to the same applicant.

BE IT FURTHER ORDERED that Rule 4 of the same rules and regulations be amended by adding thereto a section to be known as Section 5 as follows:

> SECTION FIVE.
>
> In the event the applicant shall so request in his application and in the event the application for permission to take an examination and the accompanying papers exhibit a prima facie right to take an examination, the Committee of State Bar Examiners may, in its discretion, recommend that the applicant be given a temporary license to practice law until the first day of the next succeeding examinations; Provided, However, that no more than one temporary license shall ever be granted to the same applicant.

BE IT FURTHER ORDERED that Rule 17 be amended by denominating the present rule as Section 1 of Rule 17, and by adding thereto an additional section to be known as Section 2 as follows:

> Sec. 2: Upon the filing of an application for review under this rule with the secretary of the Committee of Law Examiners it shall be the duty of the secretary to file in the office of the Clerk of the Supreme Court the application for review, the application for permission to take the examination and all accompanying papers, including the questions propounded and the answers made thereto by the applicant. Thereupon, the Supreme Court shall proceed to review the examination and shall make such orders in the premises as it shall deem proper.

BE IT FURTHER ORDERED that a rule to be known as Rule 18 of the Rules and Regulations Governing Admission to the Practice of Law in the State of Oklahoma be and the same is hereby adopted to read as follows:

RULE EIGHTEEN

> Whenever it shall satisfactorily be made to appear by an applicant, upon his verified application filed with the secretary of the Committee of Law Examiners, that in any County in this State there is no regularly and duly licensed attorney who is willing to serve in an office in said County requiring as one of the qualifications therefor that the encumbent be a duly and regularly admitted and practicing attorney by reason of which condition that office would become vacant and that the

applicant is willing to assume the duties of said office, which application is supported by a statement in writing to the same effect, filed with the secretary, subscribed by two-thirds of the members of the bar in good standing residing in said County, the Committee of Law Examiners, irrespective of the requirements of these rules and regulations, except those contained in Rule Eight, in its discretion may recommend to the Supreme Court that said applicant be licensed to practice law for a period of time coexistent with the term of said office, and the Supreme Court may thereupon in its discretion license said applicant to practice law in this State for said period of time; Provided, that said applicant, at the time of the filing of his application, shall have complied with the requirements of Rule Eight of these rules and regulations.

February 12th, 1931.

Mr. D. A. Richardson,
Mr. Horace G. McKeever,
Mr. Alger Melton,
Mr. F. B. N. Spellman,
Mr. Vern L. Thompson,
Mr. Allen Wright,
Mr. W. E. Utterback,
Mr. H. C. Potterf,
Mr. Grover C. Spillers,
Mr. Chas. A. Dickson,
Mr. C. Guy Cutlip,
Mr. Sam Massingale,

Gentlemen: Re: State Bar Act.

The following counties have either by petition or by resolution of bar associations protested the repeal of The State Bar Act, or any amendment thereto, and we assume all of these protesting resolutions are on file with Senator Mac C. Williamson:

Alfalfa
Beckham
Bryan
Caddo
Cherokee
Choctaw
Comanche
Cotton
Custer
Garfield
Grady
Grant
Harper
Haskell
Hughes
Jackson
Jefferson
Kingfisher
Latimer
LeFlore
Major
Muskogee
Nowata
Ottawa
Pawnee
Pittsburg
Seminole
Sequoyah
Stephens
Tillman

| | |
|---|---|
| Tulsa | Garvin |
| Washington | Ellis |
| Woods | Rogers |
| Woodward | Kiowa |
| Logan | Carter |
| Washita | Okmulgee |
| Mayes | Creek |

So far as I am advised the following counties have not yet acted, although I understand there is some activity in Canadian, Cleveland, Craig and Okfuskee counties:-

| | |
|---|---|
| Adair | Atoka |
| Beaver | Blaine |
| Canadian | Cleveland |
| Coal | Craig |
| Dewey | Greer |
| Johnston | Kay |
| Lincoln | Love |
| McClain | McCurtain |
| Marshall | Murray |
| Okfuskee | Oklahoma |
| Osage | Pawnee |
| Payne | Pontotoc |
| Pottawatomie | Pushmataha |
| Texas | Wagoner |

I think we should make as clean a sweep as possible and that steps should be taken to get these counties in.

Yours very truly,

Edgar K. de Meules

de.y

Tulsa, Oklahoma
March 13, 1931.

To the Members of Administrative Committees of The State Bar of Oklahoma:-

At the request of the Tulsa County Bar Association, I am enclosing herewith a copy of a proposed bill relative to the practice of law which was approved by that association.

House Bill No. 205, covering the same subject-matter, has previously been introduced by Walker of Creek County, and has been reported out favorably by the committee to which it was referred. Mr. Walker is desirous of adopting the enclosed bill as an amendment to his.

The Tulsa County Bar Association is strongly of the opinion that the encroachment upon the practice of the law in an illegitimate manner by various persons and corporations is a matter of serious concern to the bar, and that prompt and aggressive steps shall be taken to correct the situation.

Please write or wire your representatives and senators endorsing the proposed bill as an amendment to H. B. 205. Immediate action is necessary.

Edgar A. de Meules

March 16th, 1931.

Mr. Alger Melton,
Mr. Chas. A. Dickson,
Mr. Allen Wright,
Mr. Sam Massingale,
Mr. C. Guy Cutlip,
Mr. H. C. Potterf,
Mr. G. C. Spillers,
Mr. F. B. H. Spellman,
Mr. Vern E. Thompson,
Mr. W. E. Utterback,

Gentlemen:

Enclosed please find copy of an opinion which I have submitted to Messrs. Richardson and McKeever, the other two members of the Rules Committee, for adoption at the next monthly meeting.

Please familiarize yourself with the same so that we may get this matter through at the next meeting, as I regard it as the psychological time.

Yours very truly,

Edgar A. de Maules

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encl

BEFORE THE BOARD OF GOVERNORS OF THE STATE BAR OF OKLAHOMA.

In Re Rules of Professional Conduct:

OPINION NO. 1

On February 25, 1931, Victor Mead Company, Inc., filed with the State Bar of Oklahoma the following application for an opinion:

February 25, 1931

The State Bar,
Oklahoma City, Oklahoma,

Gentlemen:

Our business consists of real estate and property management which includes a complete service for the disposition, care and maintenance of property.

In connection with this business we are daily confronted with legal questions regarding titles, etc, to such an extent that we have incorporated a legal department within our business.

In the further enlargement of our scope of business, we would like to know if it would be unethical in our general advertising to call attention in a conservative manner to the services offered by our institution, one of which would be our legal department.

Very truly yours,

VICTOR MEAD COMPANY, INC,

John S. Kerfoot,
Secretary.

JK:KB

It will be noted that the applicant for the opinion is a corporation and, of course, is not, and under the laws of this State could not be, a member of the State Bar, licensed as such to practice Law in the State. Therefore, its proposed course of conduct cannot be considered as the proposed course of conduct of a member of the bar, licensed to practice law in the State of Oklahoma.

Assuming, however, that the applicant desires to be advised in the premises its attention is directed to sections 46 and 48 of the State Bar Act which are as follows:

> Sec. 46: Only Active Members May Practice Law. No person shall practice law in the State subsequent to the first meeting of The State Bar unless he shall be an active member thereof as hereinbefore defined.
>
> Sec. 48: Unlawful Practice a Misdemeanor. Any person other than a non-resident attorney, who, not being an active member of The State Bar, or who after he has been disbarred or while suspended from membership in The State Bar, as by this act provided, shall practice law, shall be guilty of a misdemeanor.

It is the opinion of the Board of Governors of The State Bar that the consummation of the plan proposed by the applicant would involve it in the practice of law.

See State ex rel Lundin v. Merchant Protective Corp. (Wash. 1919) 177 Pac. 694;

People Ex Rel Lawyers Institute of San Diego v. Merchants Protective Corp. (Cal. 1922)

In Re Co-operative Law Co. (1910) 198 N. Y. 479; 92 N. Ed. 15; 32 L.R.A. (NS) 55; 139 Am. St. Rep. 839;

Weisel and Co. v. National Jewelers Board of Trade, (1915) 154 N. Y. S. 913;

In Re Pace (1915 N. Y. ) 156 N. Y. S. 641;

In Re Duncan (S. C. 1900) 65 S. E. 210, 24 L. R. A. (NS) 750.

The foregoing cases hold, in accordance with the general rule that the "practice of law" is not limited to the conduct of cases in court, but, in a larger sense, includes the legal advice and counsel and the preparation of legal instruments and contracts, by which legal rights are secured.

It repeatedly has been held that a law agency does not change the character of its acts by furnishing duly licensed attorneys to render the service which it agrees to perform, as those attorneys are merely its agents, under its control and in its employ for that purpose. If a lay agency is not entitled to practice law directly, it is not entitled to do so indirectly by employing licensed attorneys to carry on that portion of its activities for it. See cases above cited.

Inasmuch as the propositions involved have not been heretofore passed upon by the Board of Governors, it may not be amiss to quote from the cases cited.

In People Ex Rel Lawyers Institute of San Diego v. Merchants Protective Corporation, 209 Pac. 363, it was said:

> "This brings us to the final question, which is as to whether such a corporation thus organized, thus employing attorneys as its agents and representatives, and thus dispensing legal advice, counsel, information, and services of the sort usually and generally furnished by regularly admitted and licensed attorneys and counselors to their clients in the practice of their profession, is engaged in the practice of law. The authorities, which are practically unanimous, furnish but one answer to this question, and that answer is well expressed in the case of State ex rel. Lundin v. Merchants Protective Ass'n, supra, wherein the Supreme Court of Washington, quoting from Ruling Case Law, says:
>
> > 'The practice of the law is not a business that is open to a commercial corporation. Since, as has been seen, the practice of law is not a lawful business, except for members of the bar who have complied with all the conditions required by statute and the rules of the courts, and as these conditions cannot be performed by a corporation, it follows that the practice of law is not a lawful business for a corporation to engage in. As it cannot practice law directly, it cannot do so indirectly, by employing competent lawyers to practice for it, as that would be an evasion which the law will not tolerate. 2 R. C. L. 946; In re Co-op. Law Co., 198 N. Y. 479, 92 N. E. 15, 32 L. R. A. (NS) 55, 139 Am. St. Rep. 839, 19 Ann. Cas. 879.'
>
> The essential element underlying the rela

> tion of attorney and client is that of trust and confidence of the highest degree growing out of the employment and entering into the performance of every duty which the attorney owes to his client in the course of such employment. It is the existence of this essential element as the basis of said relation which has called into being the various statutory regulations governing the admission of attorneys and counselors at law and which embody certain requirements of character, integrity, and learning as the prerequisites of such admission to the right and privilege of practicing law. It is the possession of reputation for the possession of these personal qualifications which constitutes, as a rule, the main inducement for the formation of the personal and confidential relation of attorney and client. The intervention of a corporation between the membership it secures and the attorneys it employes, which corporation can in and of itself possess none of these qualifications, obviously leaves out of view the necessity for their existence. The essential relation of trust and confidence between attorney and client cannot be said to arise where the attorney is employed, not by the client, but by some corporation which has undertaken to furnish its members with legal advice, counsel, and professional services. The attorney in such a case owes his first allegiance to his immediate employer, the corporation, and owes, at most, but an incidental, secondary, and divided loyalty to the clientele of the corporation."

In Re Co-operative Law Co, 92 N. E. 15, the following language is used:

"The practice of law is not a business open to all, but a personal right, limited to a few persons of good moral character, with special qualifications ascertained and certified after a long course of study, both general and professional, and a thorough examination by a state board appointed for the purpose. The right to practice law is in the nature of a franchise from the state conferred only for merit. It cannot be assigned or inherited, but must be earned by hard study and good conduct. It is attested by a certificate of the Supreme Court, and is protected by registration. No one can practice law unless he has taken an oath of office and has become an officer of the court, subject to its discipline, liable to punishment, for contempt in violating his duties as such, and to suspension or removal. It is not a lawful business except for members of the bar who have complied with all the conditions required by statute and the rules of the courts. As these conditions cannot be performed by a corporation, it follows that the practice of law is not a lawful business for a corporation to engage in. As it cannot practice law directly, it cannot indirectly by employing conpetent lawyers to practice for it, as that would be an evasion which the law will not tolerate. 'Quando aliquid prohibetur ex directo, prâhibetur et per obliquium.' Co. Lit. 223.

The relation of attorney and client is that of master and servant in a limited and dignified sense, and it involves the highest trust and confidence. It cannot be delegated without consent, and it cannot exist between an attorney employed by a corporation to practice law for it, and a client of the corporation, for he would be subject to the directions of the corporation, and not to the directions of the client. There would be neither contract or privity between him and the client, and he would not owe even the duty of counsel to the actual litigant. The corporation would control the litigation, the money earned would belong to the corporation, and the attorney would be responsible to the corporation only. His master would not be the client but the corporation, conducted it may be wholly by laymen, organized simply to make money and not to aid in the administration of justice which is the highest function of an attorney and counselor at law. The corporation might not have a lawyer among its stockholders, directors, or officers. Its members might be without character, learning or standing. There would be no

> remedy by attachment or disbarment to protect the public from imposition or fraud, no stimulus to good conduct from the traditions of an ancient and honorable profession, and no guide except the sordid purpose to earn money for stockholders. The bar, which is an institution of the highest usefulness and standing, would be degraded if even its humblest member became subject to the orders of a money-making corporation engaged not in conducting litigation for itself, but in the business of conducting litigation for others. The degradation of the bar is an injury to the state.
>
> A corporation can neither practice law nor hire lawyers to carry on the business of practicing law for it any more than it can practice medicine or dentistry by hiring doctors or dentists to act for it.

In State Ex Rel Lundin v. Merchant's Protective Corporation, 177 Pac. 694, the Court said:

> The practice of the law is a personal right, and, that the public may not be imposed upon by the unworthy, the law requires that those engaged in practice shall be men of good moral character and with certain qualifications and a degree of learning to be ascertained by the agents, not of the courts, but of the whole people speaking through the legislative body. The right to practice law attaches to the individual and dies with him. It cannot be made a subject of business to be sheltered under the cloak of a corporation having marketable shares descendible under the laws of inheritance. One engaged in the practice of the law is subject to personal discipline for misconduct, and to penalties for violating the ethics of the profession that could not possible attach to a corporate body.
>
> When stripped of all fabrication, the respondent has taken money from its subscribers under a contract of retainer to care for their legal business to the extent declared in its certificate of membership. This the law, as well as the policy of the law governing the admission and conduct of attorneys, forbids."

It is the opinion of the Board that the rendering of legal services to its customers, present or prospective, by the applicant, through its legal department, whether gratuitously rendered or rendered for profit directly or indirectly, pursuant to the proposed advertisement or otherwise, would constitute a violation of section 48 of the State Bar Act and would therefore be reprehensible.

The observation is made that were a member of the State Bar to engage in an advertising campaign such as is proposed by the applicant, he would be guilty of a violation of Rule 29 of the Rules of Professional Conduct adopted by the Board of Governors and approved by the Supreme Court of the State, which, in part is as follows:

> "The publication or circulation of ordinary simply business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not per se improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations is unprofessional. It is equally unprofessional to procure business by indirections through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer."

Assuming further, that the applicant is desirous of being fully advised in the premises, the Board of Governors is of the opinion that those members of its legal department, who are assumed to be members of the State Bar, who should knowingly participate in the proposed plan would be guilty not only of the violation of Rule 29 of the Rules of Professional Conduct, but would also be particeps criminis in the violation of Section 48 of the State Bar Act. As said in In Re Pace, supra, which was a proceeding against certain members of the bar in which they were charged with assisting a corporation to practice law:

> "It may be taken, therefore, as the law in this State, that it is unlawful for a corporation, whether domestic or foreign, to practice law in the State, and that any member of our bar who assists a corporation in violating the law in this respect is himself guilty of wrong doing."

The foregoing conclusions, in our judgment, are based upon the law and upon sound considerations of public policy. Society has seen fit, for its own benefit and protection, to limit the practice of law to those individuals whom it has found duly qualified in education and character. The permissive right conferred on the lawyer as an individual is a limited privilege subject to withdrawal if he fails to maintain proper standards of moral and professional conduct. Neither this privilege, nor any responsibility or duty connected therewith, can be delegated

to or shared with a laymen. The lawyer cannot share his professional responsibility with a layman or a lay agency. This of itself is sufficient to render it improper for a lawyer to allow his services to be sold or dealt in by any layman or lay agency.

There is another reason why such a practice is abhorrent. The essential dignity of the profession forbids a lawyer to solicit business or exploit his professional services. It follows that he cannot properly enter into any relations with another to have done for him that which he cannot properly do for himself.

It must therefore hold that the furnishing, selling or exploiting of the legal services of members of the Bar is derogatory to the dignity and self respect of the profession, tends to lower the standards of professional character and conduct and thus lessens the usefulness of the profession to the public, and that a lawyer who co-operates with, or makes it possible for, others to commercialize the profession and to bring it into disrepute by allowing his services to be exploited, or dealt in like merchandise, is guilty of conduct unbecoming a member of the State Bar of Oklahoma.

H.
E.
M.

Christmass Day
12:30 A.M.

Dear Guy—

As I sit here listening to the radio, viewing the X-mass tree, listening to the glad voices of my three boys, and the happy "bustling around" of my wife I have also been "ruminating" around in my mind how rich I am — in everything, perhaps, except worldly possessions. But the least of my riches is my memory of my association with you during the past year. Your friendship and loyalty during the year is one of the fine things in my entire life. I cannot let the year pass without expressing to you my appreciation of the man that you are and the warm

feeling that gladdens my heart because of it.

I wish you and yours that true happiness that I know you deserve.

Sincerely yours
Edgar A. de Mauler

By the way, I have come to the conclusion that that fellow wanted to see you - you should go back sometime and find out what he wanted.