

MINUTES

FOR THE

ATTORNEY ETHICS ADVISORY COMMITTEE

April 30, 2020

9:30 a.m.

State Courts Building, 1501 West Washington Street, Phoenix, Arizona
Conference Room 109

NOTE: Meeting of the Attorney Ethics Advisory Committee was conducted virtually. Members of the Committee and Staff attended virtually.

Present

Hon. Paul McMurdie, Chair
Michael Aaron
Sheena Chiang
Kim Demarchi
Maria Hubbard
Regina Nassen
Jon Sands
Anne Schrock
Charles Thomson
Geoffrey Trachtenberg
Maret Vessella
Angela Woolridge

Staff

Ashley Mahoney
Christine Davis
Mark Wilson
Michelle Martinez
Brianna Farmer
Dominique Cidro
Ashleigh Hansen

Absent

Hon. John Napper, Vice Chair
Hon. Kim Ortiz

Guests

Matt Hartley

No. 1 Review and Approve February 20, 2020 Minutes

Motion: Approve February 20, 2020 Minutes.

Moved by: Charles Thomson

Second: Maret Vessella

Motion Passed: 12-0-2

No. 2 Update regarding proposed Ethic Opinions:

- EO-19-0004/0005/0007 (ER 1.3(f))
- EO-19-0006 (Fearnow)
- EO-19-0009 (Retaining client files)

Brianna Farmer presented.

The listed opinions have been posted on the Committee's and the State Bar's website for public comment on March 10, 2020. The comment period will close on June 8, 2020. Thus far, no comments have been received.

No. 3 Discussion and possible action regarding:

- Pennsylvania Formal Ethics Opinion 2020-300 (pandemic ethics opinion)

Hon. Paul McMurdie presented.

The Committee discussed adding the Pennsylvania Formal Ethics Opinion 2020-300 on the Committee's webpage for the public to view. It was also suggested the State Bar include the opinion in the blast e-mail notification sent to attorneys.

- EO-20-0004 (AMMA)

Hon. Paul McMurdie presented.

The request addresses whether a lawyer may ethically advise and assist clients with matters relating to the Arizona Medical Marijuana Act (AMMA).

The Committee discussed the subcommittee's memo regarding other states' regulation on not actively prosecuting dispensaries as long as they follow the state rules and do not involve money laundering or other illegal conduct.

The Committee agreed the request did not require an Ethics Opinion but rather a Rule Petition regarding AMMA.

Motion: Draft rule petition

Moved by: Regina Nassen

Second: Maret Vessella

Motion Passed: 12-0-2

- o EO-20-0003 (Bankruptcy financing)

Hon. Paul McMurdie presented.

The Committee discussed incorporating the reasoning and analysis set forth in recent ethics opinions issued by other jurisdictions and the decisions issued by Bankruptcy Courts.

Member of the public Matt Hartley addressed the Committee.

Motion: Draft an opinion.

Moved by: Charles Thomson

Second: Geoffrey Trachtenberg

Motion Passed: 12-0-2

No. 4 Update and possible action regarding Ethics Opinion Drafts:

- o EO-19-0003 (Nonlawyers with mandatory reporting)

Angela Woolridge presented.

The subcommittee discussed the changes made to the draft after reviewing the submitted public comment, which included a minor addition in the introduction and a footnote regarding the definition of what provisions will be covered.

Motion: Submit draft to the Supreme Court for final review.

Moved by: Charles Thomson

Second: Geoffrey Trachtenberg

Motion Passed: 12-0-2

- o EO-20-0001 (Information to successor counsel)

Charles Thomson presented final draft to the Committee.

Motion: Accept changes and publish for public comment.

Moved by: Geoffrey Trachtenberg

Second: Charles Thomson

Motion Passed: 12-0-2

No. 5 Call to Public

Member of the public, Nancy Greenlee chair of the State Bar's Ethics Advisory Group (EAG), submitted a public comment before the meeting for the Committee to review and discuss. Ms. Greenlee suggested the Committee review a list of prior Ethics Opinions that are regularly cited at Ethics CLEs.

The Committee requested Ms. Greenlee to submit the list of prior Ethics Opinions to review at the next meeting.

Next Meeting: May 28, 2020

Adjourned: 10:12 a.m.