

practitioner make a solicitation which involves the use of undue influence.

(c) A practitioner shall not solicit a potential client who is apparently in a physical or mental condition which would make it unlikely that he could exercise reasonable, considered judgment as to the selection of a practitioner.

(d) A practitioner shall not pay or otherwise assist any other person who is not also a practitioner and a member or associate of the same firm to solicit employment for the practitioner.

(e) If a public communication is to be made through use of radio or television, it must be prerecorded and approved for broadcast by the practitioner. A recording of the actual transmission must be retained by the practitioner for a period of 1 year after the date of the final transmission.

(f) A paid advertisement must be identified as such unless it is apparent from the context that it is a paid advertisement.

(g) A practitioner shall not compensate or give anything of value to a representative of any communication medium in anticipation of or in return for professional publicity in a news item.

§ 1103.30 Acceptance of employment.

(a) The practitioner must decline to conduct a case or to make a defense when convinced that it is intended merely to harass or to injure the opposing party, or to work oppression or wrong. Otherwise, it is the practitioner's right, and having accepted retainer, it becomes the practitioner's duty, to insist upon the judgment of the Board as to the merits of the client's claim. The practitioner's acceptance of a case is equivalent to the assertion that the client's case is proper for determination.

(b) No practitioner is obliged to act either as adviser or advocate for every potential client. The practitioner has the right to decline employment. Every practitioner shall decide what employment he will accept, what cases he will bring before the Board for complainants, or contest for defendants or respondents.

§ 1103.31 Responsibility for litigation.

The practitioner bears the responsibility for advising as to questionable transactions, bringing questionable proceedings, or urging questionable defenses. Client's instructions cannot be used as an excuse for questionable practices.

§ 1103.32 Discovery of imposition and deception and duty to report corrupt or dishonest conduct.

(a) The practitioner, upon detecting fraud or deception practiced against the Board or a party in a case, shall make every effort to rectify the practice by advising his client to forgo any unjustly earned advantage. If such advice is refused, the practitioner should inform the injured party or that party's practitioner so that appropriate steps may be taken.

(b) Practitioners shall expose without fear or favor before the proper tribunals any corrupt or dishonest conduct and should accept without hesitation employment against a practitioner who has wronged his client. The practitioner upon the trial of a case in which perjury has been committed owes it to the Board and to the public to bring the matter to the knowledge of the prosecuting authorities.

§ 1103.33 Responsibility when proposing a person for admission to practice before the Board.

The practitioner shall aid in guarding the bar of the Board against admission of candidates unfit or unqualified because deficient in either moral character or qualification. A practitioner shall propose no person for admission to practice before the Board unless from personal knowledge or after reasonable inquiry he sincerely believes and is able to vouch that such person possesses the qualifications prescribed in § 1103.3.

§ 1103.34 Intermediaries.

(a) The services of a practitioner should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and practitioner. The responsibility and qualifications of the practitioner are individual. The practitioner shall avoid all relations which direct

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the performance of his duties in the interest of such intermediaries. The practitioner's relationship and responsibility to the client should be direct.

(b) The practitioner may accept employment from any organization (such as an association, club or trade organization) authorized by law to be a party to proceedings before the Board, to render services in such proceedings in any matter in which the organization, as an entity, is interested. This employment should only include the rendering of such services to the members of the organization in respect to the individual affairs as are consistent with the free and faithful performance of his duties to the Board.

(c) Nothing in this canon shall be construed as conflicting with § 1103.20(d).

§ 1103.35 Partnership or professional corporation names and titles.

In the formation of a partnership or professional corporation among practitioners care should be taken to avoid any misleading name or representation which would create a false impression as to the position or privileges of a member not duly authorized to practice. No person should be held as a practitioner who is not duly qualified under § 1103.2 or § 1103.3 of these rules. No person who is not duly admitted to practice should be held out in a way which will give the impression that he is so admitted. No false or assumed or trade name should be used to disguise the practitioner or his partnership or professional corporation.

PART 1104—FILING WITH THE BOARD—COPIES-VERIFICATION-SERVICE-PLEADINGS, GENERALLY

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AUTHORITY: 5 U.S.C. 553 and 559; 18 U.S.C. 1621; 21 U.S.C. 862; and 49 U.S.C. 721.

SOURCE: 47 FR 49554, Nov. 1, 1982, unless otherwise noted.

§ 1104.1 Address, identification, and electronic filing option.

(a) Except as provided in § 1115.7, pleadings should be addressed to the "Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC 20423-0001," and should designate the docket number and title of the proceeding, if known.

(b) The address of the person filing the pleading should be included on the first page of the pleading.

(c) All envelopes in which a pleading is being submitted should be marked in the lower left hand corner with the docket number, if known, (not the full title) and the pleading type.

(d) All multi-volume pleadings must be sequentially numbered on the cover of each volume to indicate the volume number of the pleading and the total number of volumes filed (e.g., the first volume in a 4-volume set should be labeled "volume 1 of 4," the second volume "volume 2 of 4" and so forth).

(e) Persons filing pleadings and documents with the Board have the option of electronically filing (e-filing) certain types of pleadings and documents instead of filing paper copies. Details regarding the types of pleadings and documents eligible for e-filing, the procedures to be followed, and other pertinent information are available on the Board's Web site, <http://www.stb.dot.gov>. If the e-filing option is chosen (for those pleadings and documents that are appropriate for e-filing, as determined by reference to the information on the Board's Web site), then the applicable requirements will be those specified on the Web site, and any requirements of 49 CFR part 1104 that are specifically applicable to filing of paper copies will not apply to the e-filed