

Attachment 3

EXHIBIT A

Code for Resolving Professionalism Complaints

Standards of Professionalism

Members of The Florida Bar shall not engage in unprofessional conduct. “Unprofessional conduct” means substantial or repeated violations of the *Oath of Admission to The Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Florida Bar Ideals and Goals of Professionalism*, *The Rules Regulating The Florida Bar*, or the decisions of *The Florida Supreme Court*.

Unprofessional conduct, as defined above, in many instances will constitute a violation of one or more of the *Rules of Professional Conduct*. In particular, Rule 4–8.4(d) of *The Rules Regulating The Florida Bar* has been the basis for imposing discipline in such instances. See generally, *The Florida Bar v. Ratiner*, [46 So.3d 35 \(Fla.2010\)](#); *The Florida Bar v. Abramson*, [3 So.3d 964 \(Fla.2009\)](#); and *The Florida Bar v. Martocci*, [791 So.2d 1074 \(Fla.2001\)](#).

Implementation Procedures

1. Terminology

1.1. **Standards of Professionalism:** The Standards of Professionalism are set forth in the *Oath of Admission to The Florida Bar*, *The Florida Bar Creed of Professionalism*, *The Florida Bar Ideals and Goals of Professionalism*, *The Rules Regulating The Florida Bar* and the decisions of The Florida Supreme Court.

1.2. **Complainant:** The person who complains that an attorney's conduct has violated the Standards of Professionalism.

1.3. **Respondent:** The attorney whose behavior is the subject of the complaint.

1.4. **Attorney Consumer Assistance and Intake Program (ACAP):** The program of The Florida Bar which fields and screens complaints against members of The Florida Bar. Depending upon the nature and severity of the professionalism complaint, ACAP can resolve the complaint informally as provided herein or it can refer the matter to the appropriate branch office of The Florida Bar's Lawyer Regulation Department for further action.

1.5. **Local Professionalism Panel:** An entity independent of The Florida Bar which is established at the local level for the purpose of resolving complaints of alleged unprofessional conduct by attorneys practicing in that circuit.

1.6. **Practice and Professionalism Enhancement Programs:** The various programs of The Florida Bar which exist for use in diversion cases or as a condition of discipline. These programs include Ethics School, Professionalism Workshops, Law Office Management Assistance Service (LOMAS), Stress Management Workshop, Florida Lawyers Assistance, Inc., and the Trust Accounting Workshop.

2. Initiating Professionalism Complaints

2.1. **Commencement of the Process:** Any person may initiate a professionalism complaint against a member of The Florida Bar through a Local Professionalism Panel when available and appropriate, or through ACAP. Complaints received by a Local Professionalism Panel may be referred to ACAP at any time depending upon the nature and severity of the complaint.

3. Processing Professionalism Complaints Through ACAP

3.1. Complaints initiated through ACAP can be an informal request for assistance either through a telephone call or by a written request. The complaint can also be a formal complaint either under oath as required by Rule 3–7.3(c) of *The Rules Regulating The Florida Bar* or as an unsworn judicial referral as outlined in Standing Board Policy 15.91 of The Florida Bar. The Bar may also lodge a complaint on its own initiative.

3.2. Initial Screening

3.2.1. Upon receipt of a complaint, ACAP will create a record of the request by obtaining the contact information for both the Complainant and the Respondent. The information will then be forwarded to an ACAP Attorney for Initial Screening.

3.2.2. If the ACAP Attorney determines that the concerns raised in the complaint could be resolved informally, the ACAP Attorney will contact the Respondent to discuss the professionalism issues and provide remedial guidance as necessary, or refer the complaint to a Local Professionalism Panel. If the matter cannot be resolved informally, the ACAP Attorney will contact the Complainant and explain any further available options.

3.2.3. Upon receipt of a complaint that cannot be resolved informally, the ACAP Attorney will determine whether the allegations, if proven, would constitute a violation of *The Rules of Professional Conduct* relating to professionalism. If the ACAP Attorney determines the facts as alleged would constitute a violation, an inquiry will be opened and the ACAP Attorney will investigate the allegations. If the ACAP Attorney determines the facts as alleged would not constitute a violation, the ACAP Attorney will advise the Complainant and the Respondent of the decision not to pursue an inquiry and will provide the reasons for doing so.

*284 3.2.4. If the ACAP Attorney determines after investigation that the facts show the Respondent did not violate *The Rules of Professional Conduct*, the ACAP Attorney may dismiss the case after taking informal action if necessary, such as providing remedial guidance. The Complainant and Respondent will be notified of the dismissal and will be provided the reasons for doing so.

3.2.5. If the ACAP Attorney determines after investigation that a complaint warrants further action for a possible violation of one or more of *The Rules of Professional Conduct*, the ACAP Attorney will forward the matter to the appropriate branch office of The Florida Bar's Lawyer Regulation Department for further consideration.

3.3. **Review at the Branch Level:** Upon a referral to the branch office, branch Bar counsel may dismiss the case after further review and/or investigation, recommend Diversion to a Practice and Professionalism Enhancement Program in accordance with Rule 3–5.3(d) of *The Rules Regulating The Florida Bar*, or refer to a Grievance Committee for further investigation.

3.4. **Review by the Grievance Committee:** Upon referral and conclusion of the investigation, the Grievance Committee will make one of the following findings:

A. No probable cause;

B. No probable cause and include a letter of advice to the Respondent;

C. Recommendation of Diversion to one of the Practice and Professionalism Enhancement Programs;

D. Recommendation of Admonishment for Minor Misconduct; or

E. Probable cause. Probable cause under Rule 3–2.1 of *The Rules Regulating The Florida Bar* is a finding by an authorized agency that there is cause to believe that a member of The Florida Bar is guilty of misconduct justifying disciplinary action.

3.5. **Confidentiality:** The confidentiality of disciplinary investigations and proceedings is outlined in Rule 3–7.1 of *The Rules Regulating The Florida Bar*. Any record of informal attempts to resolve a dispute as outlined in paragraph 3.2.2. would also be subject to the provisions of Rule 3–7.1 except that notes of any telephonic communication between the ACAP Attorney and the Complainant, the Respondent, or any third party would be considered the work product of The Florida Bar and would remain confidential and not become part of the public record.