

the practitioner, as clients the disclosure and consent shall be in writing.

(b) A practitioner shall not represent a client if the representation of that client may be materially limited by the practitioner's responsibilities to another client or to a third party, or by the practitioner's own interests, where any of the clients or third party have immediate or prospective business before the Office, unless:

(1) The practitioner reasonably believes the representation will not be adversely affected; and

(2) The client gives informed consent in writing after full disclosure, including implications of the common representation and the advantages and risks involved, by the practitioner.

(c) The requirements of paragraph (b) of this section apply when the third party is an invention promoter, or the practitioner's interests involve receiving payment from an invention promoter.

§ 11.108 Conflict of interest: Prohibited transactions.

(a) A practitioner shall not enter into a business transaction with a client having immediate or prospective business before the Office, or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client having immediate or prospective business before the Office unless:

(1) The transaction and terms on which the practitioner acquires the interest are fair and reasonable to the client, and are fully disclosed and transmitted in writing by the practitioner to the client in a manner which can be reasonably understood by the client;

(2) The client is advised to and given a reasonable opportunity by the practitioner to seek the advice of independent counsel in the transaction; and

(3) The client gives informed consent in writing thereto after full disclosure by the practitioner.

(b) A practitioner shall not use information relating to representation of a client having immediate or prospective business before the Office to the disadvantage of the client unless the client gives informed consent in writing after full disclosure by the practitioner, except as permitted or required by §§ 11.106 or 11.303.

(c) A practitioner shall not prepare an instrument giving the practitioner or a person related to the practitioner as parent, child, sibling, or spouse any substantial gift from a client having immediate or prospective business before the Office, including a

testamentary gift, except where the client is related to the donee.

(d) Prior to the conclusion of representation of a client having immediate or prospective business before the Office, a practitioner shall not make or negotiate an agreement giving the practitioner literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A practitioner shall not provide financial assistance to a client in connection with pending or contemplated litigation or proceeding before the Office, except that:

(1) A practitioner may advance court costs and expenses of litigation, or a proceeding before the Office, the repayment of which may be contingent on the outcome of the matter;

(2) A practitioner representing an indigent client may pay court or Office costs and expenses of litigation or proceeding before the Office on behalf of the client; and

(3) A practitioner may advance or guarantee the expenses of going forward in a proceeding before the Office including fees required by law to be paid to the Office in connection with the prosecution of the matter, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses. A practitioner may, however, advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee.

(f) A practitioner shall not accept compensation for representing a client having immediate or prospective business before the Office from one other than the client unless:

(1) The client gives informed consent, confirmed in writing, after full disclosure by the practitioner;

(2) There is no actual or potential interference with the practitioner's independence of professional judgment or with the attorney-client or agent-client relationship; and

(3) Information relating to representation of a client is protected as required by § 11.106.

(g) A practitioner who represents two or more clients having immediate or prospective business before the Office shall not participate in making an aggregate settlement of the claims of or against the clients, unless each client gives informed consent, confirmed in writing, after full disclosure by the practitioner, including disclosure of the existence and nature of all the claims or

pleas involved and of the participation of each person in the settlement.

(h) A practitioner, in regard to practice before the Office, shall not:

(1) Make an agreement prospectively limiting the practitioner's liability to a client or former client for malpractice unless permitted by law and the client is independently represented in making the agreement; or

(2) Settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

(i) A practitioner related to another practitioner as parent, child, sibling, or spouse shall not represent a client having immediate or prospective business before the Office in a representation directly adverse to a person who the practitioner knows is represented by the other practitioner except upon informed consent by the client, confirmed in writing, after full disclosure by the practitioner regarding the relationship.

(j) A practitioner shall not acquire a proprietary interest in papers received from a client having immediate or prospective business before the Office, or in a proceeding before the Office that the practitioner is conducting for a client, except that the practitioner may:

(1) Acquire a lien granted by law to secure the practitioner's fee or expenses except as provided in § 11.116(d); and

(2) Contract with a client for a reasonable contingent fee in a civil case or proceeding before the Office; or

(3) In a patent case, after complying with the provisions of paragraph (a) of this section, and, in the case of a practitioner who is or has been an officer or employee of the Office, only at such time and insofar as is permitted by 35 U.S.C. 4, take an interest in a patent or in the proceeds from a patent as part or all of his or her fee. However, the fee obtained by said interest may not exceed an amount that is reasonable. See § 11.105(a).

(k) If an invention promoter provides the practitioner with access to an inventor-client whom the practitioner undertakes to represent before the Office, the practitioner shall not accept or continue representation of the inventor-client without providing full disclosure of all conflicts in writing to the inventor-client where:

(1) The practitioner has a legal, business, financial, professional, or personal relationship with a company in the same matter; or

(2) The practitioner has or had a legal, business, financial, professional, or personal relationship with another