

the preparation or prosecution of a patent application in violation of an undertaking signed under § 11.10(b), or knowingly aiding in any manner another practitioner in conduct violating an undertaking signed by the other practitioner under § 11.10(b).

§ 11.112 Former judge or arbitrator.

(a) Except as stated in paragraph (b) of this section, a practitioner shall not represent anyone in connection with a matter before the Office in which the practitioner participated personally and substantially as an arbitrator, unless all parties to the proceeding give informed consent, confirmed in writing, after disclosure by the practitioner.

(b) A practitioner shall not negotiate for employment with any person who is involved as a party or as practitioner for a party in a matter in which the practitioner is participating personally and substantially as a judge, administrative law judge, administrative patent judge, administrative trademark judge, or other adjudicative officer, or arbitrator. A practitioner serving as a law clerk to a judge, administrative patent judge, administrative trademark judge, other adjudicative officer or arbitrator may negotiate for employment with a party or practitioner involved in a matter in which the clerk is participating personally and substantially, but only after the practitioner has notified the judge, other adjudicative officer or arbitrator.

(c) If a practitioner is disqualified by paragraph (a) of this section, no practitioner in a firm with which that practitioner is associated may knowingly undertake or continue representation in the matter unless:

(1) The disqualified practitioner is screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) Written notice is promptly given to the appropriate tribunal to enable it to ascertain compliance with the provisions of this section.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

§ 11.113 Organization as client.

(a) A practitioner employed or retained by an organization represents the organization, which acts through its duly authorized constituents.

(b) If a practitioner employed or retained by an organization having immediate or prospective business before the Office knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in

a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law which reasonably might be imputed to the organization, and is likely to result in substantial injury to the organization, the practitioner shall proceed as is reasonably necessary in the best interest of the organization. In determining how to proceed, the practitioner shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the practitioner's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters and any other relevant considerations. Any measures taken shall be designed to minimize disruption of the organization and the risk of revealing information relating to the representation to persons outside the organization. Such measures may include among others:

(1) Asking reconsideration of the matter;

(2) Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and

(3) Referring the matter to higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest authority that can act in behalf of the organization as determined by applicable law.

(c) If, despite the practitioner's efforts in accordance with paragraph (b) of this section, the highest authority that can act on behalf of the organization insists upon acting, or a refusal to act, that is clearly a violation of law and is likely to result in substantial injury to the organization, the practitioner may resign in accordance with § 11.116.

(d) In dealing with an organization's directors, officers, employees, members, shareholders, or other constituents, a practitioner shall explain the identity of the client when it is apparent that the organization's interests may be adverse to those of the constituents with whom the practitioner is dealing.

(e) A practitioner representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of § 11.107. If the organization's consent to the dual representation is required by § 11.107, the consent shall be confirmed in writing by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

§ 11.114 Client under a disability.

(a) When the ability of a client who has immediate or prospective business before the Office, to make adequately considered decisions in connection with the representation is impaired, whether because of minority, mental disability, or for some other reason, the practitioner shall, as far as reasonably possible, maintain a normal attorney-client or agent-client relationship with the client.

(b) A practitioner may seek the appointment of a guardian or take other protective action with respect to a client having immediate or prospective business before the Office, only when the practitioner reasonably believes that the client cannot adequately act in the client's own interest.

§ 11.115 Safekeeping property.

(a) All funds received or held by a practitioner or law firm on behalf of a client having immediate or prospective business before the Office, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the State, authorized by Federal or State law to do business in the jurisdiction where the practitioner or law firm is situated and which is a member of the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation, or successor agencies or, in the case of a practitioner having an office in a foreign country or registered under § 11.6(c), in said financial institution in the United States or in a comparable financial institution in a foreign country, and no funds belonging to the practitioner or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or

(2) Funds belonging in part to a client and in part presently or potentially to the practitioner or law firm must be deposited in said financial institution, and the portion belonging to the practitioner or law firm must be withdrawn promptly after it is due unless the right of the practitioner or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(b) A practitioner having an arrangement with an invention promoter for payment of his or her legal fees for legal services rendered for a client referred to the practitioner by the promoter must ascertain upon accepting said referral whether the client advances