

(b) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by § 11.106.

**§ 11.402 Communication with person represented by counsel.**

(a) In representing a client having immediate or prospective business before the Office a practitioner shall not communicate or cause another to communicate about the subject of the representation with a party the practitioner knows to be represented by another practitioner in the matter, unless the practitioner has the consent of the practitioner representing such other party or is authorized by law to do so.

(b) For purposes of this section, the term *party* includes any person, including an employee of a party organization, who has the authority to bind a party organization as to the representation to which the communication relates.

(c) This section does not prohibit communication by a practitioner with Government officials who have the authority to redress the grievances of the practitioner's client, whether or not those grievances or the practitioner's communications relate to matters that are the subject of the representation, provided that in the event of such communications the disclosures specified in paragraph (b) of this section are made to the Government official to whom the communication is made.

**§ 11.403 Dealing with unrepresented person.**

In dealing with a person who is not represented by counsel on behalf of a client having immediate or prospective business before the Office, a practitioner shall not state or imply to unrepresented persons that the practitioner is disinterested. When the practitioner knows or reasonably should know that the unrepresented person misunderstands the practitioner's role in the matter, the practitioner shall make reasonable efforts to correct the misunderstanding.

**§ 11.404 Respect for rights of third persons.**

In representing a client having immediate or prospective business before the Office, a practitioner shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

**§§ 11.405–11.500 [Reserved]**

**Law Firms and Associations**

**§ 11.501 Responsibilities of a partner or supervisory practitioner.**

(a) A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all practitioners in the firm conform to the Rules of Professional Conduct.

(b) A practitioner having direct supervisory authority over another practitioner shall make reasonable efforts to ensure that the other practitioner conforms to the Rules of Professional Conduct.

(c) A practitioner shall be responsible for another practitioner's violation of the Rules of Professional Conduct if:

(1) The practitioner orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) The practitioner is a partner in the law firm in which the other practitioner practices, or has direct supervisory authority over the other practitioner, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

**§ 11.502 Responsibilities of a subordinate practitioner.**

(a) A practitioner is bound by the Rules of Professional Conduct notwithstanding that the practitioner acted at the direction of another person.

(b) A subordinate practitioner does not violate the Rules of Professional Conduct if that practitioner acts in accordance with a supervisory practitioner's reasonable resolution of an arguable question of professional duty.

**§ 11.503 Responsibilities regarding nonpractitioner assistants.**

With respect to a nonpractitioner employed or retained by, or associated with a practitioner practicing before the Office:

(a) A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the practitioner;

(b) A practitioner having direct supervisory authority over the nonpractitioner shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the practitioner; and

(c) A practitioner shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a practitioner if:

(1) The practitioner orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) The practitioner is a partner in the law firm in which the person is employed or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

**§ 11.504 Professional independence of a practitioner.**

(a) A practitioner or law firm, in regard to practice before the Office, shall not share legal fees with a nonpractitioner, except that:

(1) An agreement by a practitioner with the practitioner's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the practitioner's death, to the practitioner's estate or to one or more specified persons;

(2) A practitioner who purchases the practice of a deceased, disabled, or disappeared practitioner may, pursuant to the provisions of § 11.117, pay to the estate or other representative of that practitioner the agreed upon purchase price; and

(3) A practitioner or law firm may include nonpractitioner employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(b) A practitioner accepting a client referred by an invention promoter shall not divide legal fees paid by the client with the promoter for legal services rendered in regard to practice before the Office, including by accepting payment from the promoter a portion of funds the promoter receives from the referred client, delivering to the promoter a portion of any funds the practitioner receives from the client. The proscribed delivery of funds includes any transfer of funds before or after services are rendered. The legal services include, but are not limited to, providing an opinion regarding the patentability of the client's invention, providing an opinion regarding the registrability of a mark, preparing a patent or trademark application, and prosecuting a patent or trademark application.

(c) A practitioner shall not form a partnership with a nonpractitioner if any of the activities of the partnership consist of the practice of law before the Office.

(d) A practitioner shall not permit a person who recommends, employs, or pays the practitioner to render legal services for another before the Office to direct or regulate the practitioner's