

## *Barrister and Attorney's Practice Promotion Code*

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### Definitions

1. In this Code "practice promotion" in relation to a barrister and attorney means the marketing by whatever method of that barrister and attorney, his practice or his firm or the professional legal services offered by him or it, and includes
  - (a) any exposure, whether or not paid for, in any public medium,
  - (b) the issue of any publication or communication (including orally) in any medium to any client, prospective client or the public generally which has the character of an advertisement or promotional material,
  - (c) any public appearance, and
  - (d) any contact with a prospective client initiated by or on behalf of the barrister and attorney.

### Scope of this Code

2. This Code relates to all forms of practice promotion by or with the permission of a barrister and attorney.
3. Subject to this Code a barrister and attorney may engage in practice promotion in any way he thinks fit.
4. All practice promotion must have regard to the Barristers' Code of Professional Conduct 1981 (as amended from time to time) and other professional obligations and requirements, and nothing in this Code shall be construed as authority for any breach of those rules, obligations or requirements.
5. It is the responsibility of each barrister and attorney to ensure that his practice promotion, whether conducted by himself or by other persons, complies with the provisions of this Code. The responsibility cannot be delegated. Where a barrister and attorney becomes aware of any impropriety in or in relation to any practice promotion on his behalf, he must use his best endeavours to have it rectified or withdrawn as appropriate. Any practice promotion activity relating to a barrister and attorney shall be presumed, subject to proof by the barrister and attorney to the contrary, to have been issued (in the form in which it was issued) with his authority.

### General principles

6. Practice promotion shall be decent, legal, honest and truthful and shall not:
  - (a) be in any manner which may reasonably be considered as being in bad taste;
  - (b) be likely to mislead or deceive, whether by inclusion or omission;
  - (c) contain any adverse remark or implication concerning any other barrister and attorney or firm of barristers and attorneys, in particular in any comparison of services, practice or fees;
  - (d) make any claim or imply that the barrister and attorney is, or that his practice is or includes an expert in any field of practice or generally. It is permissible, however, to refer to his knowledge, qualifications, experience or area(s) of practice provided that such a claim can be justified;
  - (e) identify any client or any item of any client's business without the prior written consent of the client;
  - (f) be defamatory;
  - (g) refer to the barrister and attorney's success rate;
  - (h) imply that a barrister and attorney can obtain results by improper means;
  - (i) be intrusive, offensive or otherwise inappropriate having regard, among other things, to the manner, medium or frequency of approach, or surrounding circumstances;
  - (j) be calculated or likely to take advantage of the weak or weakened mental, physical or emotional state of the recipient or intended recipient;
  - (k) take place in or in the immediate vicinity of a court, police station or place of detention in relation to a person who has been or may be charged with, or has been convicted of, any offence;
  - (l) be directed at a person who has made known a desire not to be contacted;
  - (m) be inappropriate having regard to the best interests of the public or of the profession of barrister and attorney in Bermuda;

- (n) breach any other code of advertising practice for the time being in force which applies to barrister and attorneys.

#### Statements as to Charges

- 7. (a) Any practice promotion by way of statement as to charges or a basis of charging must be clearly expressed. It must be stated what services will be provided for those charges or on that basis of charging. Any circumstances in which the charges may be increased or the basis altered must be stated. It must be clear whether disbursements are included.
- (b) Statements as to charges shall not use words or expressions such as "from . . .", "minimum . . ." or ". . . and up" or the like in referring to the fees to be charged nor shall such statements indicate that a price is a discount or reduction or special rate provided that a fee for certain types of work specified by the Bar Council may be stated to be a minimum fee so long as the circumstances in which the minimum fee is likely to be exceeded is also contained in the statement.
- (c) Statements as to charges may state that a particular service of a barrister and attorney is free of charge, but this must not be conditional on the barrister and attorney or any other person being given any other instructions, or receiving any commissions or other benefit, in connection with that or any other matter.
- (d) No statement as to charges may quote a composite fee for two or more separate services of a barrister and attorney unless the barrister and attorney is willing if required (i) to quote separate fees for the individual services (which separate fees may not total more than the composite fee), and (ii) to carry out any one only of those services on the basis of such separate fee.

#### Professional Stationery

- 8. (a) The following information only may be stated on professional stationery:
  - i. Firm name;
  - ii. Description as Barrister and Attorney;
  - iii. The office address or addresses;
  - iv. Telecommunications number(s);
  - v. Name of one of the firm's departments (provided such description is not misleading);

- vi. Office hours;
  - vii. The names of partners, associate assistant barristers and attorneys or consultants but there should be some indication of status and a clear distinction made from the names of partners or sole proprietor and associate assistant barristers and attorneys and consultants to make it clear that such persons are not partners. For the purposes of this provision a horizontal line showing partners or sole proprietors above the line and associates below the line is sufficient.
  - viii. The words "Notary Public"; the firm can be described as "Barristers and Attorneys and Notaries Public" if at least one barrister and attorney is a notary public;
  - ix. The words "Agents for Trademarks and Patents", where the firm carries on that practice;
  - x. Decorations, degrees, honours, qualifications including legal qualifications;
  - xi. A foreign address provided it is more than a *poste restante* or mere accommodation address;
  - xii. The names of legal executives who are Fellows of the Institute of Legal Executives provided they are indicated to be such;
  - xiii. The names of barristers and attorneys holding current practising certificates resident abroad provided they are separately indicated as "Nonresident" or by identifying the country in which they are resident (for example "Resident in England");
  - xiv. The firm's logo.
- (b) These Guidelines do not affect the practice adopted by some firms of putting on their stationery the name of the member of staff who is to be contacted, eg., "when calling or telephoning, please ask for Mr. . . . . .". This is a helpful practice and is sometimes used in place of or in addition to the space for a reference.
- (c) The following information must not be given:
- i. The names of clients for whom the barrister and attorney acts, except when the stationery is used by a barrister and attorney exclusively upon a client's business in the capacity of that client's barrister and attorney.
  - ii. Public appointments other than as a member of the Legislature;

### Prohibited Media

9. Practice promotion may not take the form of advertising or solicited promotion on television or radio, in the cinema, or on any hoarding or display in or readily visible or audible from a place to which the general public habitually has access (whether with or without payment). This restriction does not prohibit or restrict the display of
- (a) an appropriate nameplate outside the premises at which a firm of barristers and attorneys practises;
  - (b) the name and/or logo of a firm of barristers and attorneys on clothing worn by members or association or clients of the firm at any time or times or at a sporting event by members of a team entered by the firm and their bona fide organizers and officials or otherwise; or
  - (c) the name of a firm of barristers and attorneys at an event sponsored by the firm to identify their presence at the event, provided it is not inappropriate having regard to the manner, size or surrounding circumstances; or
  - (d) informational material concerning a firm of barristers and attorneys on a home page on an on-line computer network.

### Extraterritorial Practice Promotion

10. Any practice promotion outside Bermuda shall comply with any relevant regulations applicable to legal practitioners admitted to practise in the jurisdiction in which the promotional activity is undertaken as well as the provisions of this Code.

### Records

11. A barrister and attorney shall retain a copy or record of each item of practice promotional material authorized by him for not less than one year after publication.

### Interpretation and Variation

12. The Bar Council may from time to time by resolution published to the profession draw attention to examples of practice promotion which in the opinion of the Council constitute breaches of the general principles and intent of this Code. Any practice promotion effected or continued after the promulgation of such advice would be regarded by the Council as a breach of this Code.

13. The Bar Council shall have power to waive a breach, or to condone a prospective breach, of any of the provisions of this Code in any particular case.

27th February, 1997.