

CODE OF ETHICS FOR ATTORNEYS

[made by the Council of The Mauritius Law Society under Section 17 (1) of The Mauritius Law Society Act]

1. An Attorney shall on taking the oath of office, endeavour to maintain the tradition, high integrity, honour and dignity of the profession and encourage other Attorneys to act similarly, in the practice of his profession and his private life, refrain from conduct which is detrimental to the profession or may tend to discredit it.
2. An Attorney shall scrupulously preserve his independence in the discharge of his professional duties.
3. An Attorney shall promptly pay any fees due to the Mauritius Law Society.
4. An Attorney shall not, by his actions, stir up strife or litigation, by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing a retainer to prosecute a claim therefore, or pay or reward any person directly or indirectly for the purpose of procuring him to be retained in his professional capacity, and where it is in the interest of the client, he shall seek to obtain reasonable settlements of disputes.
5. Attorneys shall seek written instructions in all cases including a written agreement as regards fees and possibly of revising fees in protracted cases.
6. An Attorney shall always act in the best interests of his client, represent him honestly, competently and zealously and endeavour by all fair and honourable means to obtain for him the benefit of any and every remedy and defence which is authorised by law, steadfastly bearing in mind that the duties and responsibilities of the Attorney are to be carried out within and not without the bounds of the law.
7. An Attorney may withdraw from a case in the following circumstances :-
 - i) for lack of instructions;
 - ii) by the Client's refusal to settle agreed fees;
 - iii) Client's failure to follow advice tendered.

8. (1) Before advising on a client's cause, an Attorney shall obtain full knowledge thereof and give an honest and *bona fide* opinion on the merits or demerits and probable results of pending or contemplated litigation.

(2) An Attorney shall beware of proffering bold and confident assurances to his client, especially where employment may depend on such assurance, always bearing in mind that seldom are all the law and facts on the side of his client and that *audi alteram partem* is the safest rule to follow.

(3) Whenever the controversy admits of fair adjustments, an Attorney shall inform his client accordingly and advise him to avoid or settle litigation.
9. (1) The conduct of an Attorney towards his fellow Attorneys shall be characterised by courtesy, fairness and good faith, and he shall not allow ill-feeling or litigants to affect relationship with colleagues.

(2) All personal conflicts between Attorneys shall be avoided as shall also colloquies between them which cause delay and promote unseemly wrangling, however, senior colleagues or the Law Society may be approached to settle differences or disputes between Attorneys.
10. An Attorney shall not solicit business or consent to become involved in a matter except at the request of a party.
11. An Attorney shall not, in carrying out his practice or otherwise, permit any act or thing which is likely or intended to attract business unfairly or can reasonably be regarded as touting or advertising.
12. An Attorney shall never knowingly mislead a Court, a domestic tribunal or Committee, a Court Officer, a client or a law practitioner.
13. (1) An Attorney shall be entitled to hold out any person who is an Attorney as a partner, practising in collaboration or in joint practice.

(2) An Attorney shall not enter into a fee-sharing or other financial arrangement in kind or cash concerning the practice of law with a person who is not a law practitioner.

(3) No Attorney shall authorise a person who is not a law practitioner to operate a bank account which is maintained by the Attorney in connection with his practice as an Attorney.

14. (1) An Attorney shall not in any way make use of any form of advertisement calculated to attract clients to himself and he shall not permit, authorise or encourage anyone to do so or reward anyone for doing so on his behalf.

(2) An Attorney shall not permit his professional standing to be used for the purpose of advertising any particular product, service or commercial organisation.

(3) Subject to subparagraphs (4) and (5), an Attorney shall not advertise for business indirectly by furnishing or inspiring newspaper comment concerning cases in which an Attorney has been or is connected or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the Attorney's position and any self commendation.

(4) An Attorney may-

(a) permit limited and dignified identification of himself as an Attorney-

i) in political advertisements relevant to the course of a political campaign or issue;

ii) in public notices where the announcement of his professional status is required or authorized by law, or is reasonably necessary for a purpose other than the attraction of potential clients;

- iii) in reports and announcements of bona fide commercial, civic, professional or political organizations in which he serves as a director or officer;
 - iv) in and on legal textbooks, articles, professional journals and other publications and in dignified and restrained advertisements thereof; and
 - v) in announcements of any public address, lecture or publication by him on legal topics, where such announcements do not emphasize his professional competence and are not likely to be regarded as being concerned with the giving of individual advice by him; and
- (b) speak in public or write for publication on legal topics so long as he does not thereby emphasize his own professional competence and is not likely to be regarded as being concerned thereby with the giving of individual advice.

(5) The following cards, office signs, letterheads or directory listings may be used by an Attorney in a restrained and dignified form-

- (a) a professional card identifying the Attorney by name and as an Attorney giving his decorations and degrees, legal or otherwise, his addresses, telephone numbers and the name of his partners and are only handed out on request and for the purposes of identification or address;
- (b) a brief professional announcement card to be delivered only to Attorneys, clients, personal friends and relations and government bodies and stating new or changed associations or addresses or similar professional matters;

- (c) a sign of a size and design compatible with the existing practice of the profession, on or near the door of the office and in the building directory identifying the law office;
- (d) a letterhead identifying the Attorney by name and as an Attorney and giving his decorations and degrees, legal or otherwise, his addresses, telephone numbers and the name of his partners; and
- (e) a listing in a telephone directory. A reputable law list, legal directory or biographical reference giving brief biographical or other relevant information.

15. Where an Attorney commits an offence of fraud or dishonesty which in the opinion of the Council is of a nature likely to bring the profession into disrepute, such commission of the offence shall constitute professional misconduct if he has been convicted by any court, including a foreign court of competent jurisdiction, for the offence.

16. An Attorney shall not acquire, directly or indirectly, by purchase or otherwise, a financial or other interest in the subject matter of a case which he is conducting, but this will be without prejudice to the right of an Attorney to agree with his client on the payment of a reasonable commission by way of remuneration for his services.

17. (1) An attorney shall not charge fees that are unfair or unreasonable.

(2) In determining the fairness or reasonableness of a fee the following factors may be taken into account :-

- a) the time and labour required, the novelty and difficulty of the question involved and the skill required to perform the legal service properly;
- b) the likelihood that the acceptance of the particular brief or assignment will preclude other employment by the Attorney;
- c) the fee customarily charged in the locality for similar legal services;

- d) the amount, if any, involved or the importance of the matter;
- e) the urgency or the time limitations imposed by the client or by the circumstances;
- f) the nature and length of the professional relationship with the client; and
- g) the experience, reputation and ability of the Attorney concerned.

(3) An Attorney shall not accept a fee or reward for merely introducing a client or referring a case or client to another Attorney.

(4) An Attorney shall not charge a contingency fee other than a reasonable commission on the collection of a claim without the prior written agreement of the client.

18. (1) Except with the approval of his client given after full disclosure, an Attorney shall not act in any manner in which his professional duties and his personal interest conflict or are likely to conflict.

(2) An attorney shall not accept or continue a retainer or assignment on behalf of 2 or more clients if their interests are likely to conflict or if his independent professional judgement is likely to be impaired.

19. An Attorney who withdraws from a retainer or assignment shall not do so until he has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his client including :-

- a) giving due notice;
- b) allowing time for retainer of another attorney;

- c) delivering to the client all documents and property to which he is entitled subject however to any *lien* which the Attorney may have over them;
- d) complying with such laws, rules or practice as may be applicable; and
- e) where appropriate, obtaining the permission of the Court where the hearing of the matter has commenced.

20. An Attorney shall forthwith withdraw from a retainer or an assignment or from a matter pending before a court :-

- a) where the client insists upon his presenting a claim or defence that he cannot conscientiously advance;
- b) where the client seeks to pursue a course of conduct which is legal or which will result in deliberately deceiving the court;
- c) where the client has in the course of the proceedings perpetrated a fraud upon a person or the court and on request by the Attorney has refused or is unable to rectify it;
- d) where his failure to withdraw will involve him in the violation of the law or a disciplinary rule;
- e) where the client by any other conduct renders it unreasonably difficult for the Attorney to carry out his retainer or assignment as such effectively, or in accordance with the judgement and advice of the Attorney, or the rules of law or professional ethics; or
- f) where for any good and compelling reason it is difficult for him to carry out his retainer or assignment effectively.

21. An Attorney shall not retain money he received for his client for longer than is absolutely necessary.

22. An Attorney shall never disclose, unless ordered to do so by a court or required by law, what has been communicated to him in his capacity as an Attorney by his client and this duty not to disclose extends to his partner, to junior Attorneys assisting him and to his employees, but an Attorney may reveal confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or partner against an accusation of wrongful conduct.
23. An Attorney shall not permit his professional services or his name to be used in any way which would make it possible for persons who are not legally authorised to do so to practice law.
24. An attorney shall not delegate to a person not legally qualified and not in his employ or under his control, any functions which are by law only to be performed by an Attorney.
25. In the performance of his duties an Attorney shall not act with inexcusable or undue delay or negligence.
26. An Attorney shall not engage in undignified or discourteous conduct which is degrading to a court or his profession.
27. An Attorney shall not make false accusation against a Judge, a Magistrate, a Court Officer or a law practitioner.
28. An Attorney shall not accept a retainer or assignment in a matter upon the merits of which he previously acted in a judicial capacity or for which he had substantial responsibility while he was in public employment.
29. An Attorney shall not for the purpose of making any person unavailable as a witness, advise or cause that person to secrete himself or leave the jurisdiction of the Court.
30. An Attorney shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter save as reimbursement for expenses reasonably incurred or as reasonable fee for his professional services.

31. An Attorney shall not knowingly use perjured testimony of false evidence or participate in the creation or use of evidence which he knows to be false.
32. (1) An Attorney shall not commit a breach of an undertaking, given by him to a Judge, a Court or other tribunal or an official thereof, whether such undertaking relates to an expression of intention as to future conduct or is a representation that a particular state of facts exists.

(2) An Attorney shall not knowingly represent falsely to a Judge, a Court or other tribunal or to an official of a Court or other tribunal, that a particular state of facts exists.
33. An Attorney shall keep such accounts as clearly and accurately distinguish the financial position between himself and his client as and when required.
34. Nothing in paragraph 33 shall deprive an Attorney of any recourse or right whether by way of *lien*, set off, counterclaim, charge or otherwise against monies standing to the credit of a client's account maintained by him.
35. An Attorney shall comply promptly to any letter received from the Mauritius Law Society or the Council relating to his professional conduct.
36. Where no provision is made in this code in respect of any matter, the rules and practice of the profession which formerly governed the particular matter shall apply so far as practicable.
37. Where in any particular matter explicit ethical guidance does not exist, an Attorney shall act in a manner that promotes public confidence in the integrity and efficiency of the profession.
38. An Attorney acting in breach of the Code may be sanctioned by the Council or by the Supreme Court as the case may be.