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Report of the Committee on the Practice of Law

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REPORT OF THE COMMITTEE ON THE PRACTICE OF LAW

TO THE MINNESOTA STATE BAR ASSOCIATION :

Your Committee recommends :

Recommendation

1. That all members of the bar, and all district and all local bar associations, be requested to report to the Practice of Law Committee instances of solicitation of law business encountered by them, and to document the report with affidavits to the extent practicable, and that this request for cooperation be publicized in Bench and Bar.

Report

The committee has met six times since the last annual bar convention and its representatives have attended four meetings with representatives of other agencies. The complaints against lawyers and laymen under consideration within that period are charted as follows :

Complaints against	Received	Disposed of	Referred	On Hand
Attorneys, before July 1, 1946	15	9	1	5
Attorneys, since July 1, 1946	22	15	3	4
Laymen, before July 1, 1946	1	1	0	0
Laymen, since July 1, 1946	4	2	1	1

Only one of the complaints above listed was inherited by this committee from the Board of Law Examiners. The referred complaints were transferred to the Ethics and Grievance Committees, or the unauthorized practice of law committees of the Hennepin and Ramsey county bar associations, pursuant to the established policy of this committee that such complaints be referred to active committees of the district or local bars where the person complained against resides. Currently, such committees are active in Hennepin, Ramsey, and St. Louis counties. Upon recommendation of such active committee, jurisdiction of cases against lawyers is resumed. This committee acknowledges gratefully the cooperation of the local committees named, which have functioned efficiently to investigate complaints and sift the evidence available.

Members of the association may gather a more intimate insight of the committee work from the following chart of its labors :

Meeting Date	Meeting Hours	Files Considered	Policies Considered	Lawyer Appearances	Opinions Reported
August 14	9:00-4:45	28	2	0	1
October 23	9:30-4:45	25	3	2	4
November 8	9:30-4:40	8	1	1	0
November 22	10:00-4:10	6	0	0	2
March 5	10:00-3:00	16	0	1	1
April 4	9:50-4:10	17	14	1	0

After preparation of the last report and before the current association year, one judgment of disbarment has been entered as the result of previous committee work; in the current year, two petitions for discipline have been heard before the duly appointed referees, and one new petition and accusation has been filed.

The committee has alerted itself to the need of comity between the agencies of other courts and this committee as agency of our Supreme Court

in order that we be informed of disbarments elsewhere of lawyers admitted to practice here, and that we inform other courts of the disbarment of lawyers by our court and admitted to practice in other courts. It has established policies for the communication of such information to the proper authorities.

The committee has the objective of encouraging lawyers to adhere to the high principles of professional conduct required by the Canons of Professional Ethics. It is found that a great many complaints against our lawyers are groundless. The investigation of complaints of solicitation of law business is a work of considerable difficulty, and the committee's recommendation is made to aid the committee in this difficult work and to establish the committee as a central point for gathering such complaints.

During the past three years of work, the committee has repeatedly engaged in discussions regarding procedure and policies. Upon the basis of its experience, and upon the specific authority granted the Committee by Rule XXI of our Supreme Court, the committee adopted rules which grant limited authority to the chairman, and generally state the policies the committee has followed in the past. The rules adopted follow :

1.

No formality of any kind is required for the presentation of charges of misconduct against attorneys. If apparent wrongdoing is shown, such investigation as seems called for in the circumstances will be undertaken by the committee. If the complaint be without foundation on its face or obviously misdirected, the chairman may so advise the complainant.

2.

In cases of apparent misconduct the chairman will, unless in unusual circumstances such a course will defeat efficient investigation, notify the accused attorney, in writing, of the charge or charges and invite him to make answer in writing.

3.

If the chairman shall consider it proper or expedient, he may employ an investigator or investigators, either a member or members of the bar or otherwise, to report to him and the committee such facts as may be pertinent to the determination of the truth of the complaint under consideration, and he may invite the complainant or the accused attorney, or both, to appear before the committee at a stated time, and place, there to present their testimony and their documentary evidence, and submit the matter under consideration to the committee for its decision. The committee may continue the matter from time to time and hold such further hearings, on such notice, or otherwise, as it may deem necessary.

4.

If the committee concludes that the truth of the charge has not been established or that, for other reasons, the conduct complained of was not of such a serious character as to warrant consideration of the charges by the Supreme Court, it will dispose of the complaint as the facts may warrant. If, upon the evidence presented to it, the committee is of such a character as to warrant disciplinary proceedings, it shall submit the charge or charges to the Supreme Court, in accordance with the provisions of Rule XXI of the Court, and thereafter, if the Court shall so direct, it will prosecute such charge or charges to their conclusion; provided, that no such charge or charges shall be submitted to the Supreme Court until the accused attorney has been given an opportunity to be heard by the committee, unless he has been convicted of a felony, or of a misdemeanor involving moral turpitude other than a contempt of court.

5.

The chairman shall submit to each meeting of the committee a report of his acts and doings, and the committee shall approve or disapprove thereof and take such action in that behalf as it may deem proper.

6.

Prosecution of complaints of improper conduct by an attorney need not be delayed because of pending litigation involving the conduct of the attorney.

7.

Subject to the approval of the Court, the prosecution of disciplinary proceedings against an attorney need not be withheld solely upon the basis of the promise of such attorney that he will abandon the practice of law.

8.

The committee will not enforce pecuniary demands of complainants.

9.

Except as authorized by the committee, a complainant shall not be informed of a committee decision disposing of a complaint against an attorney, other than the fact of its dismissal or the commencement of disciplinary proceedings.

10.

No member of the committee shall disclose any of the proceedings of the committee, unless authorized by the committee.

11.

No information shall be furnished to the press regarding complaints or proceedings against an attorney.

12.

Upon entry of a judgment of suspension or disbarment by the Supreme Court of Minnesota, the chairman shall promptly advise or cause to be advised all other courts wherein the disbarred attorney may be admitted to practice of the decision of the Court.

13.

A complaint of improper conduct as an attorney or of unauthorized practice of law against a person residing within the area of a district or local bar association, where an active committee of a district or local bar association functions satisfactorily for the investigation and handling of such complaints, shall be referred to such committee for investigation with a request for a report to this committee.

14.

A complaint against an attorney of improper conduct referred to this committee by a similar committee of a district or local bar association shall be accompanied by the complete files of the referring committee.

15.

Complaints of the unauthorized practice of law within the jurisdiction of the Section of Real Property of this association may be referred to said section.

16.

Complaints of the unauthorized practice of law by members of a class represented by a state organization may be referred to the Committee on Cooperation with Lay Groups of this association.

17.

The chairman may cause to be furnished to any member of the bar upon request an opinion on professional ethics; provided, that the proposed opinion shall be referred to the committee before issuance if deemed debatable.

18.

The committee shall forthwith after each meeting submit a copy or copies of the minutes of the meeting to the Supreme Court.