

Tel Aviv, 25 in Kislev, 5771

02/12/2010

01670210

Re: **Procedure for Handling Ethics Complaints (Conflict of Interests)**

Basic Rules

1. In these rules:

The "parties to the Complaint": the Defendant, the Complainant, the Defendant's attorney, the Complainant's attorney.

"Position holders in the Complaint System": a member of the Ethics Committee, an attorney of the Ethics Committee, assistant attorney, attorney of the Ethics Committee in disciplinary or legal proceedings, a member of the office that assists work of the Ethics Committee, or a member of the appointing Committee according to section 18D of the Bar Association Law.

2. A Complaint against the lawyer shall be handled, as a rule, in the Ethics Committee of the District of the Bar Association in which he is registered.
3. Complaints against interns shall be handled in the National Ethics Committee.
4. Complaints against lawyers whose membership in the Bar Association was suspended, that refer to the period in which they were suspended, shall be handled in the National Ethics Committee.
5. Complaints against members of the Disciplinary Tribunal of the Bar Association, shall be handled in the National Ethics Committee.
6. If a Complaint was received in the Ethics Committee, and according to subject matter it must be heard in another Committee, the Committee receiving the Complaint must transfer the Complaint to the Committee authorized to hear it according to sections 2-5 above.
7. The chairman of the Ethics Committee may decide that due to special importance, or a public matter, a Complaint that was submitted to the Committee which he heads- shall be handled by the National Ethics Committee. If the chairman of the National Ethics Committee decided to handle such Complaint – he shall notify this to the chairman of the relevant District Ethics Committee, who can present his position in this matter before the chairman of the National Ethics Committee.
8. If there is a real concern that the District Ethics Committee is in a conflict which does not allow it to handle a certain Complaint, the Committee shall transfer the Complaint to the National Ethics Committee to handle. The National Ethics Committee shall be entitled to handle the Complaint itself, or

transfer it to another District Committee, as shall be decided by the chairman of the National Committee.

9. In the event there is a real concern that the National Ethics Committee is in a conflict of interests that does not allow it to handle a certain Complaint, the Committee shall transfer the Complaint to the District Ethics Committee to handle which is not prevented from handling it, as the chairman of the National Ethics Committee shall determine.

Handling Complaints against Position Holders

10. The District Ethics Committee shall not handle a Complaint in respect to which one of the parties is a member of the District Committee or a position holder in the District Complaint System, or a Complaint in respect to which there is direct involvement of one of the position holders mentioned above. The Complaint shall be transferred to another District Ethics Committee to handle, as the chairman of the National Ethics Committee shall determine.
11. The National Ethics Committee shall not handle a Complaint in respect to which one of its parties is a member of the Central Committee, or a position holder in the National Complaint System, or a Complaint in respect to which there is a direct involvement of one of the position holders mentioned above. The Complaint shall be transferred to be handled by another District Ethics Committee that is not prevented from hearing it, according to the decision of the chairman of the National Committee.
12. If the National Ethics Committee has been requested to handle a Complaint in respect to which one of its parties is a member of the Central Committee, or a position holder in the National complain system, or a Complaint in respect to which there is direct involvement of one of the position holders above, and this is by virtue of its authority as an additional Complainant according to section 63 of the Bar Association Law, 5721- 1961 (hereinafter the "Law"), it shall notify the Complainant that it is prevented from doing so, and it shall clarify to him his right to approach the attorney general or state attorney in lieu of the Committee.

Consolidated Hearing of a Complaint

13. If the Ethics Committee has seen that a Complaint that it handles deals with the same factual affair of a Complaint handled at another Ethics Committee, it shall approach the other Committee and it shall agree where the Complaint shall be heard together. If the Committees do not reach an agreement regarding the place to handle the Complaint – the chairman of the National Ethics Committee shall decide this matter.

A Specific Conflict of Interests of Position Holders in the Complaint System

14. If a position holder in the Complaint System saw that there is a real concern that he is in conflict of interests that prevents him from hearing a certain Complaint, he shall notify the chairman of the Committee of this without any

delay and he shall refrain from handling the Complaint. According to the nature of the matter the chairman of the Committee shall decide if the member must be prevented from being present in the hearings, or whether it is sufficient that he not participate in the hearing and vote, and this shall be documented in the Complaint protocol or file.

15. If the chairman of the Committee himself is in conflict of interests as mentioned, he shall transfer the matter on an administrative and material level to his substitute and in his absence to the senior of his deputies.
16. Without derogating from the generality of the aforesaid, it is presumed that there is a conflict of interests if the cases set forth hereafter:
 - a. The position holder was involved in the matter contemplated in the Complaint as an attorney, arbitrator, mediator, witness, professional consultant, expert or in any other manner.
 - b. The position holder is a family member or close friend of one of the parties to the Complaint.
 - c. The Complaint raises questions connected to elections in the Bar Association or to the activities of those elected in it, and the position holder is involved himself in the elections or he is elected and involved in this activity.
 - d. One of the parties to the Complaint is a client of the position holder, or he was his client in the last 5 years.
 - e. One of the parties to the Complaint is employed in an office in which the position holder acts, or he was employed there in the last 3 years.
17. A position holder in the Complaint System shall not represent a client against the Committee that he serves in, or any other Ethics Committee.
18. If a written Application was received at the office of a member of the Ethics Committee concerning a Complaint, he shall refrain from responding to the letter, and he shall transfer it to the Committee's secretariat, which shall notify this to the sender. If such Application as mentioned was received verbally the member shall notify him that he is prohibited from receiving the Application, and he shall update the Committee's secretariat of this.
19. A position holder at the Complaint System shall not disclose information given to him by virtue of his position in matters concerning the Complaint that was handled at the Complaint System, except for information that is permitted for publication.

Queries

20. These rules shall also apply to handling queries, mutatis mutandis. However, the National Ethics Committee may handle any query that was referred to it.

Miscellaneous

21. The chairman of the Ethics Committee shall be responsible for performing this procedure in the Ethics Committee that he heads.
22. If the Ethics Committee hears a Complaint against a lawyer that belongs to another District, it shall handle all stages of it, and if a Complaint is filed in it, the Complaint shall be conducted by the attorney near it.
23. If the Ethics Committee received a Complaint of an attorney registered in another District, it shall notify the District Ethics Committee that it is handling the Complaint, of its decision to set it aside or to put the Defendant on trial and the results of the Complaint proceeding.
24. If the Ethics Committee decided to file a Complaint against a member of the National or District disciplinary Committee, a member of the District or Central Committee, a member of the Ethics Committee or member of the National council – the Committee attorney shall notify this to the chairman of the institution in which the Defendant serves.

Dror Arad- Eylon

Chairman of the National Ethics Committee

Procedure for Handling Complaints by the Ethics Committees, 5773- 2013

1. This procedure stipulates uniform rules for handling Complaints by the Ethics Committees of the Bar Association.

2. In this procedure –

"Application": including an Application initiated by an external party, or information that reached the Committee by its own resources.

"Complaint": an Application that the Ethics Committee decided to regard as a Complaint in the sense of section 1 of the Bar Association Rules (Procedures in Disciplinary Tribunals), 5722- 1962.

"Claim": in the sense of the Bar Association Law, 5721- 1961.

"Statutory Response": the position of the Defendant regarding the Complaint.

"Initial Response": the position of the Defendant in the matter concerning an Application, in respect to which it was decided not to regard it as a Complaint.

"Attorney": attorney as defined in the Bar Association Law.

3. Initial Handling

- 3.1. Any Application to the Bar Association from an external party that raises a matter of professional ethics, shall be submitted on a form attached to this procedure (hereinafter the "Complaint Submittal Form").
- 3.2. A Complaint Submittal Form shall be downloadable from the internet site of the Bar Association, and it shall be possible to receive it as a printed form in each of the offices of the Bar Association and its Districts.
- 3.3. If the Application was not filled out on a Complaint Submittal Form, the Application shall be returned to the applicant with the form, and the applicant shall be required to fill out the form and complete all details in it. If the Complainant does not fill out the Complaint Submittal Form as required, the Complaint shall not be handled, however the Defendant's attorney shall be given a notice of its submittal without him being required to give an Initial Response with respect to it.
- 3.4. The Complaint Submittal Form shall be transferred to the Ethics Committee secretariat to which it was sent. If the form was not addressed to a certain Ethics Committee, it shall be directed to the Ethics Committee in the District in which the Defendant is registered or to the National Ethics Committee, in accordance with the procedure of handling ethics Complaints (conflict of

interests) (hereinafter the "Committee or the Complainant"). The Complaint Submittal Form shall be registered in the computerized database of the Committee, it shall be given a serial number and confirmation of receiving it shall be sent to the applicant.

- 3.5. If a Complaint Submittal Form was received which was completely filled out, it shall be handled as set forth hereafter.
- 3.6. Within 7 days the Application shall be transferred to the Complainant or to anyone on his behalf for initial examination. The Complainant or anyone on its behalf shall act by virtue of the authority conferred upon the Complainant according to rule 3 of the Bar Association Rules (Procedures in Disciplinary Tribunals), 5722- 1962, and it shall require the Complainant to verify the details of his Complaint in an affidavit, if it shall see it fit to do so, including in any of the following cases:
 - 3.6.1. If the Complaint was filed by the party to a proceeding in which the Defendant's attorney represents the counter party;
 - 3.6.2. If a legal proceeding is being conducted between the Complainant and the Defendant's attorney in a matter in respect to which the Complaint was filed;
 - 3.6.3. If a Complaint in the same matter or a Complaint against the same attorney, has been already submitted in the past by the Complainant.
- 3.7. In the event that the Complainant shall be required to verify the details of his Complaint in an affidavit, a notice of this shall be sent to him and the time frame for submitting it shall be determined.
- 3.8. A Complainant who was required to verify the details of his Complaint in an affidavit, and did not do so – shall not handle the Complaint, subject to the provisions in section 3.9 hereafter, however, the Defendant's attorney shall be given a notice that it was submitted without him being required to submit an Initial Response with respect to it.
- 3.9. The chairman of the Committee or anyone on his behalf shall be entitled to order, for reasons explained and recorded, that the Complaint shall be handled by the Committee even if it was not submitted on a Complaint Submittal Form and/or its details were not verified in an affidavit, if the Complainant was required to verify them.
- 3.10. If the details of the Complainant were verified in an affidavit as required, or if their verification was not required in an affidavit – it shall continue to be handled as set forth hereafter.
- 3.11. The Complaint Form and affidavit (if its submittal was required) shall be read at least by one of the following position holders: the chairman of the Committee, the substitute chairman, the deputy chairman, the Committee

attorney, the commissioner over the Committee or whoever the Committee appointed out of the members of the Committee (hereinafter: the "Reader").

- 3.12. Within 14 days after the Complaint arrived (hereinafter the "Application") to him, the reader shall decide on one of the following actions or more, and he shall notify this to the Committee secretariat, which shall act accordingly:

3.12.1. The Application shall be sent for Initial Response of the Defendant.

3.12.2. Transferring the Application to be handled by another person at the Bar Association.

3.12.3. Transferring the Application in which the terms in sections 75 or 78 of the Bar Association Law, 5741- 1961 exist, for adopting a decision in the Ethics Committee without a need for the Defendant's response.

- 3.13. In the appropriate cases, the reader is entitled to recommend sending the applicant for the statutory response of the Defendant, without the need for an Initial Response. Such recommendation as mentioned requires the approval of the chairman of the Committee, his substitute or one of his deputies, and it shall be reported to the assembly of the Committee.

- 3.14. Summarily Setting the Complaint Aside:

3.14.1. In cases where the Complaint does not raise any question in the field of professional ethics, the reader is entitled to recommend setting the Complaint aside without the need for any answer by the Defendant.

3.14.2. A decision to set it aside without response shall be adopted in consent by the chairman of the Committee and his substitute (and in absence of one of the chairman deputies), a notice shall be delivered of this to the Committee assembly.

3.14.3. A member of the Ethics Committee may demand that a hearing shall take place in the Committee assembly regarding the decision to set the Complaint aside according to this section.

3.14.4. A notice shall not be sent regarding the Complaint being set aside, before this has been notified to the assembly, and the members have been given an opportunity to demand such hearing as mentioned in section 3.14.3.

- 3.15. After the time allocated for responding according to section 3.12.1 has passed, the Application shall be transferred to the reader for making a recommendation within 21 days of the following:

3.15.1. The Complaint should be set aside.

3.15.2. A demand should be sent for statutory response by the Defendant.

3.15.3. To put the Defendant up for trial, provided that a statutory response was given by the Defendant, or the time allocated to the Defendant for giving it has passed.

3.15.4. To send a demand to complete details by the Defendant.

3.15.5. To send the Application for additional response by the Defendant.

3.15.6. To transfer the Application to another person at the Bar Association to handle.

3.16. The recommendations according to sections 3.15.4, 3.15.5, 3.15.6 shall be performed by the Committee's secretariat, without the need for additional approval.

3.17. After performing the recommendation according to section 3.15.4, 3.15.5 the Application shall be returned to the reader to make a recommendation according to section 3.15.1- 3.15.3 above.

4. Hearings in the Ethics Committee:

4.1. Recommendation according to sections 3.12.3, 3.15.1, 3.15.2, 3.15.3 shall be brought to the hearing at the Committee's assembly, subject to the provisions in section 3.13 above.

4.2. The Committee is entitled to review the Defendant's disciplinary past, including Complaints against him that were set aside, and the comments that he received in the past in each of the ethic Committees of the Bar Association.

4.3. If the Committee decides to set a Complaint aside it is entitled to add a comment to the Defendant, to the decision to set it aside, with respect to his conduct.

4.4. The Committee's hearings are internal hearings and their content is confidential. The chairman of the Committee or anyone on his behalf shall make sure to make a concise record of the subjects being heard, the opinions, and principle positions (if and insofar as the chairman saw this necessary) and the decisions. With respect to the Complaints - the registration shall not include the names of the lawyers involved.

5. Completion and handling:

5.1. The Committee's secretariat shall update the parties involved regarding the results of the Complaint.

5.2. A notice that the Complaint has been set aside shall be sent to the Defendant and to the Complainant and it shall include the following details:

5.2.1. The reason for setting the Complaint aside of the reasons set forth in the appendix.

5.2.2. A comment, insofar as the Committee shall decide.

6. At any time the Complaint is being handled, the chairman of the Committee or anyone on his behalf or the Committee assembly may decide to consolidate the handling of various Complaints against one Defendant, with various Complaints of another Defendant, or various Complaints in a different subject. If such hearings have been consolidated as mentioned, appropriate times shall be scheduled for handling the consolidated Complaints.

7. Notices of the Committee shall be sent as follows:

7.1. Requests of the Complainant to complete details or to verify details of the Complaint in an affidavit, or for Initial Response from the Defendant, shall be sent by registered mail.

7.2. A request for statutory response shall be sent by registered mail, with a certificate of delivery.

7.3. The rest of the notices shall be sent by ordinary mail.

The addresses which the Complainant delivered and the Defendant's registered address – shall be the addresses for delivering notices.

8. The Complainant or the Defendant respectively must respond within 14 days. An extension shall not be given to the Complainant or to the Defendant, except for special reasons.

9. The failure to perform a formal provision of the procedure does not disqualify the disciplinary procedure.

Adv. Dror Arad- Eylon

Chairman of the National Ethics Committee

Attached: .

Reasons for Setting Complaints Aside

Four main reasons for setting Complaints aside:

Lack of Public Interest

De minimis

A very old matter

Defense due to justice

Lack of Sufficient Evidence

Lack of cooperation by the Complainant

Lack of ethical violation

The Complaint deals with a civil dispute

The Complaint deals with a dispute over legal fees

The matter is not suitable for hearing in the Ethics Committee (rather in another instance or tribunal).

Form for Submitting a Complaint to the Ethics Committee

Lawyers in Israel are subject to disciplinary law, according to the Bar Association Law, 5721- 1961, and rules that were enacted by its virtue. As a rule, a Complaint against a lawyer must be submitted to the District Ethics Committee in the District where the lawyer is located.

In order for the Complaint to be handled, it must be submitted on a form hereafter. Attention is directed to the fact that failure to submit the Complaint on this form or not filling out all the details in the form shall cause the Complaint to be summarily set aside.

The signed form and all the documents that shall be attached to it must be sent to the Bar Association, by mail or by fax as follows:

The District of Tel Aviv Ethics Committee– 10 Daniel Frisch St. Tel Aviv (only by post or by personal delivery).

The District of Jerusalem Ethics Committee– 1 Shofen St. Jerusalem, Fax: 02-5610554

The District of Haifa Ethics Committee– 6 Ben Gurion Blvd. Haifa Fax: 04- 8553033.

The Southern District Ethics Committee– 33 Ragar Blvd., P.O. Box 484 Beer Sheva, Fax: 08- 6239369

The Northern District Ethics Committee– Bypass Nazareth Road, Halat el Dir 3002/15, Nazareth, Fax- 04- 6015112

National Ethics Committee- 10 Daniel Frisch St. Tel Aviv Fax – 03- 6918696

Additional details regarding the manner of handling Complaints are in the website of the Bar Association, in the "Professional Ethics" section*.

Details of the Complainant

The details of the contractual engagement must be filled out in full.

The Ethics Committee shall be entitled to approach the Complainant, and send him any document, by fax or by email.

(a) Complainant who is not an attorney

Name of the Complainant	Identity certificate number	Fax number
Residential address	Telephone number	Email

If the Complaint is submitted by an attorney in the name of the client – in addition to the details of the client, also the details of the representing attorney this should be mentioned.

Name of the lawyer representing the	License number	Fax number

Complainant		
Office address	Telephone number	Email

(b) A Complainant who is an attorney

Name of the lawyer submitting the Complainant	License number	Fax number
Office address	Telephone number	Email

Details of the lawyer in respect to whom the Complaint is submitted.

Name of the lawyer	License number (if known)	Address of the lawyer

1. **The lawyer with respect to which the Complaint is submitted is** (erase the inapplicable): a. the lawyer that represents or shall represent the Complainant; b. the lawyer of the counter party; c. other – provide details:

2. **During the last five years I submitted Complaints in this matter against other lawyers to the Ethics Committee** (erase the inapplicable): no/ yes; if yes- provide details of all the Complaints, the file number that was given to them by the bar association and the dates they were submitted:

3. **During the five last years I submitted Complaints to the Ethics Committee against the lawyer in respect to whom this Complaint is submitted** (erase the inapplicable): yes/ no; if yes- provide details of the Complaints, the file number that was given to them by the bar association and the dates they were submitted:

4. **Are legal proceedings being conducted in this matter** (erase the inapplicable): no / yes; if yes- provide details regarding which proceedings, names of the parties, where they are being conducted and the numbers of the files:

If a judicial decision was rendered in these proceedings, it must be added.

5. **Detail the circumstances of the Complaint** – in the details of the circumstances mention the facts with respect to why you are of the opinion that the lawyer performed the ethical offense, what was the time when the facts occurred and when were they first brought to your attention (if the Complainant is a lawyer – mention what the offense was that the lawyer committed in respect to which the Complaint if submitted.

The following are the details of the circumstances of the Complaint and its facts:

a.

b.

c.

d.

e.

(if the place intended for this in the form is not sufficient, details of the circumstances of the Complaint and its facts must be attached in a separate page).

6. Any relevant document must be attached which supports the details of the Complaint.

I declare that the aforesaid in my Application is true. I am aware that in accordance with the Bar Association Rules (Procedures in Disciplinary Tribunals), 5722- 1962, the Ethics Committee shall be entitled to demand additional details from me with respect to the Complaint, and demand that I will verify its details by a lawful affidavit and/or that I will submit other evidence in order to verify the details of the Complaint.

Date

Signature

*if the Complaint is submitted by a lawyer on behalf of the client – the client must sign the statement above.

*for your attention: subject to receiving from you all the required details – and an affidavit to verify the details of the Complaint (if requested) – the Ethics Committee shall examine the Complaint, and insofar as this will seem to it to be required it will request the lawyer's written response in respect to which the Complaint was submitted and it shall decide if to submit a claim following the Complaint, or not.

The hearings in the Ethics Committee are conducted in an internal and closed format, and its content is confidential. The hearing and the decision of the committee are on the basis of the Complaint and the response, if submitted, that shall be before it – and without the presence of the parties. The committee regarding the decision of the Ethics Committee is sent to the parties.

If the District Ethics Committee or the National Ethics Committee decided to submit a claim against the attorney, the claim shall be submitted in the District Disciplinary Tribunal where the attorney belongs, and it shall be conducted by an attorney on behalf of the Committee that decided to file it.

The hearings in the Disciplinary Tribunal are conducted with open doors, unless the tribunal shall decide otherwise for reasons set forth in the law.