Colo. R. Prof'l. Cond. 1.8

Rule 1.8 - Conflict of Interest: Current Clients: Specific Rules

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter;

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client; and

(3) a lawyer representing an indigent client without payment of a fee, a lawyer representing an indigent client without payment of a fee through a nonprofit legal services or public interest organization, a lawyer representing an indigent client without payment of a fee through a law school clinical or pro bono program, and a lawyer representing an indigent client or the interests of a child and youth through employment or contracts with a state agency may provide modest gifts to the client for food, rent, transportation, medicine or other basic living expenses, provided that the lawyer shall not:

(i) promise, assure or imply the availability of such gifts prior to retention or as an inducement to continue the client-lawyer relationship after retention;

(ii) seek or accept reimbursement from the client, a relative of the client or anyone affiliated with the client; or

(iii) publicize or advertise to prospective clients a willingness to provide such gifts. Financial assistance under this Rule may be provided even if the representation is eligible for fees under a fee-shifting statute.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement; or

(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (b) through (i) that applies to any one of them shall apply to all of them.

RPC 1.8

Entire Appendix repealed and readopted April 12, 2007, effective 1/1/2008; amended and adopted by the Court, En Banc, September 8, 2022, effective 9/8/2022; amended and

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COMMENT

Business Transactions Between Client and Lawyer

[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice. See Rule 5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by Rule 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities' services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

[2] Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking the advice of independent legal counsel. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. See Rule 1.0(e) (definition of informed consent).

[3] The risk to a client is greatest when the client expects the lawyer to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with the requirements of paragraph (a), but also with the requirements of Rule 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that Rule 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4] If the client is independently represented in the transaction, paragraph (a)(2) of this Rule is inapplicable, and the paragraph (a)(1) requirement for full disclosure is satisfied either by a written disclosure by the lawyer involved in the transaction or by the client's independent counsel. The fact that the client was independently represented in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as paragraph (a)(1) further requires.

Use of Information Related to Representation

[5] Use of information relating to the representation to the disadvantage of the client violates the lawyer's duty of loyalty. Paragraph (b) applies when the information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer. For example, if a lawyer learns that a client intends to purchase and develop several parcels of land, the lawyer may not use that information to purchase one of the parcels in competition with the client or to recommend that another client make such a purchase. The Rule does not prohibit uses that do not disadvantage the client. For example, a lawyer who learns a government agency's interpretation of trade legislation during the representation of one client may properly use that information to benefit other clients. Paragraph (b) prohibits disadvantageous use of client information unless the client gives informed consent, except as permitted or required by these Rules. See Rules 1.2(d), 1.6, 1.9(c), 3.3, 4.1(b), 8.1 and 8.3.

Gifts to Lawyers

[6] A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, paragraph (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence, which treats client gifts as presumptively fraudulent. In any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

[7] If effectuation of a substantial gift requires preparing a legal instrument such as a will or conveyance the client should have the detached advice that another lawyer can provide. The sole exception to this Rule is where the client is a relative of the donee.

[8] This Rule does not prohibit a lawyer from seeking to have the lawyer or a partner or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Nevertheless, such appointments will be subject to the general conflict of interest provision in Rule 1.7 when there is a significant risk that the lawyer's interest in obtaining the appointment will materially limit the lawyer's independent professional judgment in advising the client concerning the choice of an executor or other fiduciary. In obtaining the client's informed consent to the conflict, the lawyer should advise the client concerning the nature and extent of the lawyer's financial interest in the appointment, as well as the availability of alternative candidates for the position.

Literary Rights

[9] An agreement by which a lawyer acquires literary or media rights concerning the conduct of the representation creates a conflict between the interests of the client and the personal interests of the lawyer. Measures suitable in the representation of the client may detract from the publication value of an account of the representation. Paragraph (d) does not prohibit a lawyer representing a client in a transaction concerning literary property from agreeing that the lawyer's fee shall consist of a share in ownership in the property, if the arrangement conforms to Rule 1.5 and paragraphs (a) and (i).

Financial Assistance

[10] Lawyers may not subsidize law suits or administrative proceedings brought on behalf of their clients, including making or guaranteeing loans to their clients for living expenses, because to do so would encourage clients to pursue law suits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation. These dangers do not warrant a prohibition on a lawyer lending a client court costs and litigation expenses, including the expenses of medical examination and the costs of obtaining and presenting

evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts. Similarly, an exception allowing lawyers representing indigent clients to pay court costs and litigation expenses regardless of whether these funds will be repaid is warranted.

[11] Paragraph (e)(3) provides another exception. A lawyer representing an indigent client without payment of a fee, a lawyer representing an indigent client without payment of a fee through a nonprofit legal services or public interest organization, a lawyer representing an indigent client without payment of a fee through a law school clinical or pro bono program, and a lawyer representing an indigent client or the interests of a child and youth through employment or contracts with a state agency may give the client modest gifts. Gifts permitted under paragraph (e)(3) include modest contributions for food, rent, transportation, medicine or similar basic necessities of life. If the gift may have consequences for the client (including but not limited to eligibility for receipt of government benefits, social services, or tax liability), the lawyer should consult with the client regarding these potential consequences before providing the gift. See Rule 1.4.

[12] The paragraph (e)(3) exception is narrow. Modest gifts are allowed in specific circumstances where they are unlikely to create conflicts of interest or invite abuse. Paragraph (e)(3) prohibits the lawyer from (i) promising, assuring or implying the availability of financial assistance prior to retention or as an inducement to continue the client-lawyer relationship after retention; (ii) seeking or accepting reimbursement from the client, a relative of the client or anyone affiliated with the client; and (iii) publicizing or advertising to prospective clients a willingness to provide gifts beyond court costs and expenses of litigation in connection with contemplated or pending litigation or administrative proceedings.

[13] Financial assistance, including modest gifts pursuant to paragraph (e)(3), may be provided even if the representation is eligible for fees under a fee-shifting statute. However, paragraph (e)(3) does not permit lawyers to provide assistance in other contemplated or pending litigation in which the lawyer may eventually recover a fee, such as contingent-fee personal injury cases or cases in which fees may be available under a contractual fee-shifting provision, even if the lawyer does not eventually receive a fee.

Person Paying for a Lawyer's Services

[14] Lawyers are frequently asked to represent a client under circumstances in which a third person will compensate the lawyer, in whole or in part. The third person might be a relative or friend, an indemnitor (such as a liability insurance company) or a co-client (such as a corporation sued along with one or more of its employees). Because third-party payers frequently have interests that differ from those of the client, including interests in minimizing the amount spent on the representation and in learning how the representation is progressing, lawyers are prohibited from accepting or continuing such representations unless the lawyer determines that there will be no interference with the lawyer's independent professional judgment and there is informed consent from the client. See also Rule 5.4(c) (prohibiting interference with a lawyer's professional judgment by one who recommends, employs or pays the lawyer to render legal services for another).

[15] Sometimes, it will be sufficient for the lawyer to obtain the client's informed consent regarding the fact of the payment and the identity of the third-party payer. If, however, the fee arrangement creates a conflict of interest for the lawyer, then the lawyer must comply with Rule 1.7. The lawyer must also conform to the requirements of Rule 1.6 concerning confidentiality. Under Rule 1.7(a), a conflict of interest exists if there is significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in the fee arrangement or by the lawyer's responsibilities to the third-party payer (for example, when the third-party payer is a co-client). Under Rule

1.7(b), the lawyer may accept or continue the representation with the informed consent of each affected client, unless the conflict is nonconsentable under that paragraph. Under Rule 1.7(b), the informed consent must be confirmed in writing.

Aggregate Settlements

[16] Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under Rule 1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, Rule 1.2(a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settlement and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these Rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. See also Rule 1.0(e) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

Limiting Liability and Settling Malpractice Claims

[17] Agreements prospectively limiting a lawyer's liability for malpractice are prohibited unless the client is independently represented in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This paragraph does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this paragraph limit the ability of lawyers to practice in the form of a limited-liability entity, where permitted by law, provided that each lawyer remains personally liable to the client for the lawyer's conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

[18] Agreements settling a claim or a potential claim for malpractice are not prohibited by this Rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult independent counsel.

Acquiring Proprietary Interest in Litigation

[19] Paragraph (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. Like paragraph (e), the general rule has its basis in common law champerty and maintenance and is designed to avoid giving the lawyer too great an interest in the representation. In addition, when the lawyer acquires an ownership interest in the subject of the representation, it will be more difficult for a client to discharge the lawyer if the client so desires. The Rule is subject to specific exceptions developed in decisional law and continued in these Rules. The exception for certain advances of the costs of litigation is set forth in paragraph (e). In

addition, paragraph (i) sets forth exceptions for liens authorized by law to secure the lawyer's fees or expenses and contracts for reasonable contingent fees. The law of each jurisdiction determines which liens are authorized by law. These may include liens granted by statute, liens originating in common law and liens acquired by contract with the client. When a lawyer acquires by contract a security interest in property other than that recovered through the lawyer's efforts in the litigation, such an acquisition is a business or financial transaction with a client and is governed by the requirements of paragraph (a). Contracts for contingent fees in civil cases are governed by Rule 1.5.

Client-Lawyer Sexual Relationships

[20] The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client's own emotional involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

[21] Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. See Rule 1.7(a)(2).

[22] When the client is an organization, paragraph (j) of this Rule prohibits a lawyer for the organization (whether inside counsel or outside counsel) from having a sexual relationship with a constituent of the organization who supervises, directs or regularly consults with that lawyer concerning the organization's legal matters.

Imputation of Prohibitions

[23] Under paragraph (k), a prohibition on conduct by an individual lawyer in paragraphs (b) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. For example, one lawyer in a firm may not solicit a substantial gift from a client of another member of the firm, even if the soliciting lawyer is not personally involved in the representation of the client, because the prohibition in paragraph (c) applies to all lawyers associated in the firm. The prohibitions set forth in paragraphs (a) and (j) are personal and are not applied to associated lawyers.

ANNOTATION Law reviews. For formal opinion of the Colorado Bar Association on Ethical Duties of Attorney Selected by Insurer to Represent Its Insured, see 22 Colo. Law. 497 (1993). For article, "Ethical Considerations of Attorney's Liens", see 31 Colo. Law. 51 (April 2002). For article, "Ethical Concerns When Dealing With the Elder Client", see 34 Colo. Law. 27 (October 2005). For article, "The Duty of Loyalty and Preparations to Compete", see 34 Colo. Law. 67 (November 2005). For article, "The New Rules of Professional Conduct: Significant Changes for In-House Counsel", see 36 Colo. Law. 71 (November 2007). For article, "Ethics in Family Law and the New Rules of

Professional Conduct", see 37 Colo. Law. 47 (October 2008). For article, "The Rules of Professional Conduct: An Equal Opportunity for Ethical Pitfalls", see 41 Colo. Law. 71 (October 2012). Annotator's note. Rule 1.8 is similar to Rule 1.8 as it existed prior to the 2007 repeal and readoption of the Colorado rules of professional conduct. Relevant cases construing that provision have been included in the annotations to this rule. Although the basis of this rule is to deter common law champerty and maintenance, the scope of the rule is not limited to conduct that would constitute champerty and maintenance. People v. Mason, 938 P.2d 133 (Colo. 1997). A violation of this rule is per se a false representation under 11 U.S.C. § 523(a)(2)(A) of the federal bankruptcy code. In re Waller, 210 Bankr. 370 (Bankr. D. Colo. 1997). Personal loan from client to attorney was not a standard commercial transaction exempt from the requirements of section (a) of this rule. In re Riebesell, 586 F.3d 782 (10th Cir. 2009). Advancing an appellate-lawyer's fees for a client does not violate section (e). Paying another lawyer to appeal a case is an "expense of litigation", and, therefore, does not violate the rule against providing financial assistance to a client. Mercantile Adjustment Bureau v. Flood, 2012 CO 38, 278 P.3d 348. Suspension for 60 days appropriate for lawyer who entered into an agreement with a client and failed to fully inform the client of the terms of the agreement in writing or obtain the client's consent to the transaction. People v. Foreman, 966 P.2d 1062 (Colo. 1998). The presumed sanction of suspension is appropriate where the attorney knew of a conflict of interest and did not fully disclose to a client the possible effect of that conflict even though such action caused no actual harm. In re Cimino, 3 P.3d 398 (Colo. 2000). Whether an attorney expects to be paid or not is insignificant to the issue of whether an attorney-client relationship existed. In re Cimino, 3 P.3d 398 (Colo. 2000). The hearing panel of the former grievance committee committed harmless error by failing to consider the personal and emotional problems that an attorney was experiencing at the time of the attorney's misconduct as mitigating in determining sanctions because no medical or psychological proof of emotional problems was brought forward. In re Cimino, 3 P.3d 398 (Colo. 2000). Suspension is generally appropriate when a lawyer knows of a conflict of interest and fails to disclose to a client the possible effect of that conflict. Respondent admittedly and knowingly failed to fully disclose to a client the possible effect of a conflict of interest and was therefore suspended from the practice of law for ninety days, stayed upon the successful completion of a one-year period of probation. People v. Fischer, 237 P.3d 645 (Colo. O.P.D.J. 2010). By acquiring promissory note and deed of trust in client's property, attorney acquired a pecuniary interest in client's property that was adverse to the client's interest. Therefore, attorney was obligated to comply with requirements of section (a). In re Fisher, 202 P.3d 1186 (Colo. 2009) (decided under rules in effect prior to 2007 repeal and readoption). When the attorney secured a promissory note with a deed of trust in client's residence, he acquired a proprietary interest in the subject matter of the litigation in violation of former section (j) (now section (i)). In re Fisher, 202 P.3d 1186 (Colo. 2009) (decided under rules in effect prior to 2007 repeal and readoption). Attorney's conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify six-month suspension, stayed upon completion of two-year probationary period. In re Fisher, 202 P.3d 1186 (Colo. 2009) (decided under rules in effect prior to 2007 repeal and readoption). Attorney's conduct warrants punishment whether or not he knew conduct was improper under the rules. In re Fisher, 202 P.3d 1186 (Colo. 2009) (decided under rules in effect prior to 2007 repeal and readoption). Conduct violating this rule in conjuntion with other disciplinary rules is sufficient to justify suspension. People v. Robinson, 853 P.2d 1145 (Colo. 1993); People v. Silver, 924 P.2d 159 (Colo. 1996); People v. Ginsberg, 967 P.2d 151 (Colo. 1998); In re Tolley, 975 P.2d 1115 (Colo. 1999); People v. Albani, 276 P.3d 64 (Colo. O.P.D.J. 2011). Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Walsh, 880 P.2d 766 (Colo. 1994); In re Tolley, 975 P.2d 1115 (Colo. 1999); People v. Calvert, 280 P.3d 1269 (Colo. O.P.D.J. 2011). Applied in People v. Culter, 277 P.3d 954 (Colo. O.P.D.J. 2011). Cases Decided Under Former DR 5-103. Law reviews. For article, "Conflicts of Interest", see 15 Colo. Law. 2001 (1986). The effect of Canon 5 is that whenever a contingent fee contract becomes a subject of litigation in the courts, the lawyer, by reason of the canon, understands that the court, under its general supervisory powers over attorneys as officers of the courts, will determine the reasonableness of the amount and will subject it to the test of quantum meruit. Brillhart v. Hudson, 169 Colo. 329, 455 P.2d 878 (1969). However, this does not mean that

the court can or should remake the contract, but rather that it should determine from all the facts and circumstances the amount of time spent, the novelty of the questions of law, and the risks of nonreturn to the client as well as to the attorney in the situation. Brillhart v. Hudson, 169 Colo. 329, 455 P.2d 878 (1969). Where the "legal services" rendered were for the most part those which are ordinarily performed by a business chance broker, the established commission payable to such broker at the time would be considered to determine reasonableness. Brillhart v. Hudson, 169 Colo. 329, 455 P.2d 878 (1969) (shown to be 10 percent of purchase price). Court cannot approve commission of 25 percent. In the exercise of supervisory powers over attorneys as officers of this court, the supreme court cannot approve -- under the guise of a "contingent fee" contract for legal services -- the payment of what in fact amounts to a broker's commission of 25 percent of the purchase price of the leasehold interest. Brillhart v. Hudson, 169 Colo. 329, 455 P.2d 878 (1969). Attorney fees secured by a note which was secured by a deed of trust on property to be sold violated this rule when, upon receipt of a check at closing, the attorney was aware that he had encumbered the property in excess of his client's share of the equity. People v. Franco, 698 P.2d 230 (Colo. 1985). Arrangement of counsel and clients in written fee agreement which assigned alleged interest in oil and gas properties in order to secure payment of legal fees did not endanger a fair trial. Trial court abused its discretion in granting a mistrial, disqualifying counsel, and assessing attorney fees. Gold Rush Invs. v. Ferrell, 778 P.2d 297 (Colo. App. 1989). Public censure warranted where attorney kept the first lump sum check obtained in settlement as a lump sum payment of his contingency fee and reimbursement of costs even though he knew the settlement might later be reduced by the social security disability award and the client's union award. People v. Maceau, 910 P.2d 692 (Colo. 1996). Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension. People v. Smith, 830 P.2d 1003 (Colo. 1992); In re Polevoy, 980 P.2d 985 (Colo. 1999). Evidence sufficient to justify suspension from the practice of law. People v. Belfor, 197 Colo. 223, 591 P.2d 585 (1979). Cases Decided Under Former DR 5-106. Law reviews. For article, "Conflicts in Settlement of Personal Injury Cases", see 11 Colo. Law. 399 (1982). Cases Decided Under Former DR 6-102. Law reviews. For article, "Limiting Liability to the Client", see 11 Colo. Law. 2389 (1982). For article, "Potential Liability for Lawyers Employing Law Clerks", see 12 Colo. Law. 1243 (1983). For article, "The Ethical Obligation to Disclose Attorney Negligence", see 13 Colo. Law 232 (1984). For article, "A Proposal on Opinion Letters in Colorado Real Estate Mortgage Loan Transactions Parts I and II", see 18 Colo. Law. 2283 (1989) and 19 Colo. Law. 1 (1990). For formal opinion of the Colorado Bar Association Ethics Committee on Release and Settlement of Legal Malpractice Claims, see 19 Colo. Law. 1553 (1990). Conduct violating this rule sufficient to justify suspension. People v. Foster, 716 P.2d 1069 (Colo. 1986). Conduct violating this rule sufficient to justify disbarment. People v. Dwyer, 652 P.2d 1074 (Colo. 1982). Applied in People v. Good, 195 Colo. 177, 576 P.2d 1020 (1978).