

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL  
CIRCUIT, IN AND FOR BROWARD COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,  
DEPARTMENT OF LEGAL AFFAIRS,  
STATE OF FLORIDA,

Plaintiff,

vs.

Case No.

MICHAEL L. METZNER,  
DAVID RAN BARNEA a/k/a RAN D. BARNEA,  
DANIEL T. POST and  
THE CONSUMER LAW GROUP, P.A.,

Defendants.

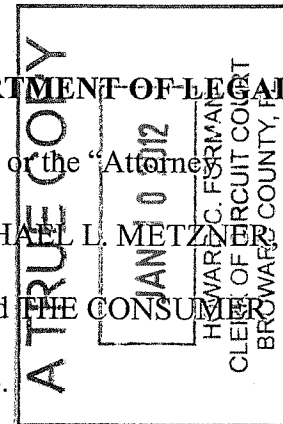
12-00762

09

COMPLAINT

Introduction

Plaintiff, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA (hereinafter referred to as "Plaintiff" or the "Attorney General"), files the instant Amended Complaint against Defendants MICHAEL L. METZNER, DAVID RAN BARNEA a/ka/ RAN D. BARNEA, DANIEL T. POST and THE CONSUMER LAW GROUP, P.A. (hereinafter collectively referred to as "Defendants").



1. This action is brought pursuant to Florida's Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes.
2. This Court has jurisdiction pursuant to the provisions of said statute.
3. Plaintiff is an enforcing authority of Florida's Deceptive and Unfair Trade Practices Act as defined in Chapter 501, Part II, Florida Statutes, and is authorized to seek statutory relief pursuant to this part.

4. The statutory violations alleged herein occurred in or affected more than one judicial circuit in the State of Florida. Venue is proper in the Seventeenth Judicial Circuit as the residence of Defendant METZNER is Broward County, Florida.

5. Plaintiff has conducted an investigation and the head of the enforcing authority, Attorney General Pamela Jo Bondi, has determined that an enforcement action serves the public interest.

6. Defendants, at all times material hereto, provided goods or services as defined within Section 501.203(8), Florida Statutes.

7. Defendants, at all times material hereto, solicited consumers within the definitions of Section 501.203(7), Florida Statutes.

8. Defendants, at all times material hereto, were engaged in a trade or commerce within the definition of Section 501.203(8), Florida Statutes.

#### **Parties**

9. Defendant METZNER resides in Broward County, Florida and/or has a principal place of business at 2001 West Sample Road, Pompano Beach, Florida, and was the owner, officer, manager, shareholder, employee, of counsel and/or director of Defendant The Consumer Law Group, P.A. (hereinafter sometimes referred to as "CLG"), a Florida for-profit corporation with a principal place of business at 23123 US 441, Boca Raton, Florida.

10. Defendants BARNEA and POST are residents of Palm Beach County, Florida and are officers, shareholders and/or directors of American Debt Negotiators, Inc. (hereinafter sometimes referred to as "ADN") and other legal entities doing business at 23123 US 441, Boca Raton, Florida.

11. Defendant The Consumer Law Group, P.A. (hereinafter sometimes referred to as “CLG”) is a Florida for-profit corporation with a principal place of business at 23123 US 441, Boca Raton, Florida. On or about November 7, 2007, Defendant METZNER incorporated CLG under the provisions of Chapter 607 of the Florida Statutes.

14. At all times material, Defendants METZNER, BARNEA and POST knew of and controlled the activities of CLG. Defendants METZNER, BARNEA and POST had actual knowledge or constructive knowledge fairly implied on the basis of objective circumstances, that his acts and/or omissions and the acts/or omissions of the employees, agents, managers and representatives of CLG as described below, were unfair or deceptive and/or prohibited by law.

**COUNT I**  
**Deceptive or Unfair Trade Practices**  
**Chapter 501, Part II Florida Statutes**

15. CLG’s Articles of Incorporation provide that “[t]he purpose for which this corporation is organized is any and all lawful business.” A copy of CLG’s Articles of Incorporation is attached hereto as Exhibit A.

16. The Articles of Incorporation of CLG do not conform to the requirements of § 621.08, Florida Statutes, which limits the purpose of a professional corporation to “the rendering of the professional [legal] services for which it was specifically organized”.

17. The provisions of Chapter 621, Florida Statutes, take precedence over the provisions of Chapter 607 for any professional services corporation.

18. Articles of Incorporation which recite the purpose for which a corporation is organized to be any lawful purpose do not conform to the limitation of § 621.08, Florida Statutes, which specifies that the business of a professional services corporation is limited to the rendering of professional services.

19. Rule 4-8.6(a) of the Rules Regulating the Florida Bar in part provides that lawyers may practice law in the form of professional service corporations qualified under applicable law. The last paragraph in the Comment to said Rule states that the term “qualified” is “imported from the Professional Services Act (Chapter 621, Florida Statutes).” A copy of Rule 4-8.6 and the Comment thereto is attached hereto as Exhibit B.

20. The Consumer Law Group, P.A has not conformed to the requirements of Chapter 621 of the Florida Statutes in order to be qualified as a professional service corporation to render legal services in the practice of law in the State of Florida.

21. CLG is not a law firm or professional service corporation qualified under the Professional Services Act, Chapter 621, Florida Statutes and ADN thus, *a fortiori*, does not perform administrative services in support of and under the supervision of a law firm relating to the provision of legal services.

22. Defendants misrepresent to the public that The Consumer Law Group, P.A. is a duly organized professional service corporation and qualified to render legal services in the State of Florida, in violation of the provisions of Chapter 501, Part II and Chapter 621 of the Florida Statutes.

23. Defendants misrepresent to the public that The Consumer Law Group, P.A. is an office for the practice of law.

24. Defendants require consumers to execute agreements retaining The Consumer Law Group, P.A. to render debt settlement services. Said agreements also require consumers to pay thousands of dollars in fees to the Defendants or to entities controlled by the Defendants before services are rendered.

25. As a result of the foregoing, the consumers who execute agreements and pay fees are misled and deceived into paying for putative legal services when The Consumer Law Group, P.A. is not a duly organized professional services corporation conforming to the requirements of Chapter 621 of the Florida Statutes and qualified to render legal services in the practice of law in the State of Florida.

26. Defendants have misled and/or deceived the public that debt settlement or debt management are services that they are able to provide as a law firm/professional services corporation conforming to the requirements of Chapter 621 of the Florida Statutes and qualified to render legal services in the practice of law in the State of Florida.

27. Commencing on a date unknown, but at least subsequent to November 9, 2007, the Defendants engaged in deceptive or unfair trade practices, as heretofore set forth, providing debt settlement services and/or debt management services to consumers to “[e]ffect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor” as set forth in § 817.801, Florida Statutes.

28. Commencing on a date unknown, but at least subsequent to November 9, 2007, the Defendants engaged in deceptive or unfair trade practices, as heretofore set forth, providing debt settlement services and/or debt management services to consumers to “[e]ffect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor” upon payment of retainers or fees in excess and in violation of the lawful fees and costs permitted by § 817.802, Florida Statutes, and thereby violating Chapter 501, Part II of the Florida Statutes pursuant to § 817.806, Florida Statutes.

29. Defendants' putative legal services, as heretofore set forth, constitute the unauthorized practice of law in accordance with the principles of the Florida Supreme Court. State of Florida ex rel. The Florida Bar v. Sperry, 140 So.2d 587 (1962).

30. Defendants have engaged in the unauthorized practice of law by representing and/or offering legal services to consumers for debt settlement and/or debt management.

31. Defendants' representations and/or offers of legal services to consumers, as heretofore set forth, constitute the unauthorized practice of law in accordance with the principles of the Florida Supreme Court. The Florida Bar v. Consolidated Business and Legal Forms, Inc., 386 So.2d 797 (1980).

32. As a result of the foregoing, Defendants have engaged in deceptive or unfair acts or practices as aforesaid in violation of the provisions of Chapter 501, Part II of the Florida Statutes.

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment against the Defendants METZNER, BARNEA, POST and THE CONSUMER LAW GROUP, P.A. as follows:

A. Granting a permanent injunction against the Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with the Defendants who receive actual notice of this injunction, prohibiting and enjoining such persons from engaging in or otherwise offering consumer-debt related services, whether secured or unsecured, including debt settlement services, debt management services, or any other service related to the consolidation, invalidation, reduction or dispute of consumer debts, either directly or indirectly, whether as the practice of law through a law office or law firm or as a business

through any type of business or entity that is not a law office, law firm or engaged in the practice of law;

B. Awarding such equitable or other relief as is just and appropriate pursuant to Section 501.207, Florida Stat., including but not limited to disgorgement of ill-gotten gain;

C. Awarding restitution to all consumers who are shown to have been injured, pursuant to Section 501.207, Florida Statutes;

D. Assessing civil penalties in the amount of Ten Thousand Dollars (\$10,000.00) for each act or practice found to be in violation of Chapter 501, Part II, Florida Statutes;

E. Awarding reasonable attorneys fees and costs pursuant to F.S. 501.2075; and

F. Granting such other relief as this Honorable Court deems just and proper.

#### COUNT II

#### **FLORIDA RICO (Racketeer Influenced and Corrupt Organization) ACT Chapter 895, Florida Statutes**

33. Plaintiff adopts, incorporates herein and re-alleges paragraphs 1 through 32 as if fully set forth hereinafter.

34. Defendants conspired with other persons in an endeavor to evade the provisions of Chapter 817, Part IV of the Florida Statutes and thereby violated Chapter 895 of the Florida Statutes by establishing putative lawyer referral services and referral network to claim the exception of § 817.803(1) for the practice of law and circumvent the fee limitations of § 817.802(1), Fla. Stat.

35. Defendants solicited or otherwise procured financially distressed consumers for attorney referrals. Said consumers, in need of debt reduction services, were referred by Defendants to licensed attorneys in return for payments by the attorneys to the Defendants from the fees paid by the referred consumers to the attorneys. The fees paid to Defendants as

aforesaid were a substantial portion of the legal fees paid to the attorneys by the referred consumers. The fees to Defendants were paid contrary to The Rules Regulating The Florida Bar as unlawful fee sharing in violation of the strictures of In re Amendments to the Rules Regulating the Fla. Bar--Advertising, 971 So. 2d 763, 793 (2007).

36. § 817.802(1), Fla. Stat. makes it unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than \$50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than \$120 per year for additional consultations or, alternatively, if debt management services as defined in § 817.801(4)(b) are provided, the person may charge the greater of 7.5 percent of the amount paid monthly by the debtor to the person or \$35 per month.

37. The fee limitations of § 817.802(1) for debt management services do not apply to attorneys in the practice of law in Florida pursuant to § 817.803(1), Fla. Stat.

38. Defendants circumvented the fee limitations of § 817.802(1) for debt management services by establishing attorney referrals for which the Defendants or their agents, servants, employees, or other representatives solicit consumers as aforesaid. Defendants solicit and then refer consumers to attorneys who charge the consumers fees in excess of those fees prescribed by § 817.802(1), Fla. Stat. The attorneys then unlawfully pay a substantial portion of the collected attorney's fees to Defendants as aforesaid.

39. As a result of their actions in endeavoring to circumvent the fee limitations of § 817.802(1), Fla. Stat., Defendants have engaged in unlawful activities prohibited by § 895.03, Fla. Stat.



WHEREFORE, Plaintiff requests that this Honorable Court enter judgment against the Defendants as follows:

A. Granting a permanent injunction against the Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with the Defendants who receive actual notice of this injunction, prohibiting and enjoining such persons from engaging in or otherwise offering consumer-debt related services, whether secured or unsecured, including debt settlement services, debt management services, or any other service related to the consolidation, invalidation, reduction or dispute of consumer debts, either directly or indirectly, whether as the practice of law through a law office or law firm or as a business through any type of business or entity that is not a law office, law firm or engaged in the practice of law;

B. Awarding such equitable or other relief as is just and appropriate pursuant to § 895.05, Fla. Stat., including but not limited to civil forfeiture of property; and

C. Granting such other relief as this Honorable Court deems just and proper.

**COUNT III**  
**FLORIDA RICO (Racketeer Influenced and Corrupt Organization) ACT**  
**Chapter 895, Florida Statutes**

40. Plaintiff adopts, incorporates herein and re-alleges paragraphs 1 through 32 as if fully set forth hereinafter.

41. Commencing on a date unknown, but at least subsequent to November 9, 2007, Defendants engaged in a systematic pattern of conduct designed and intended to induce consumers to purchase services from them via a series of deceptive or unfair representations.

42. On a date unknown but subsequent to November 9, 2007, Defendants solicited, advertised or otherwise offered debt reduction services to consumers.

43. On a date unknown but subsequent to November 9, 2007, Defendants demanded, charged and/or received payment from consumers for debt reduction services. In return for said payments from consumers, Defendants represented to consumers that they would interact or otherwise work with the credit card companies and other unsecured creditors of the consumers to reduce the consumers' indebtedness.

44. On a date unknown but subsequent November 9, 2007, Defendants did not render to consumers the debt reduction services which they represented and for which consumers had paid Defendants.

45. Defendants or their agents, servants, employees, or other representatives use communications technology to solicit or otherwise communicate with consumers.

46. Defendants engaged in a scheme to defraud, declared unlawful by the Florida Communications Fraud Act, § 817.034, Fla. Stat., in accordance with *Weaver v. State of Florida*, 981 So. 2d 508 (Fla. 4<sup>th</sup> DCA 2008) and thereby violated Chapter 895 of the Florida Statutes.

47. As a result of their scheme to defraud, declared unlawful by the Florida Communications Fraud Act, § 817.034, Fla. Stat., Defendants have engaged in unlawful activities prohibited by § 895.03, Fla. Stat.

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment against the Defendants as follows:

A. Granting a permanent injunction against the Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with the Defendants who receive actual notice of this injunction, prohibiting and enjoining such persons from engaging in or otherwise offering consumer-debt related services, whether secured or unsecured, including debt settlement services, debt management services, or any other service

related to the consolidation, invalidation, reduction or dispute of consumer debts, either directly or indirectly, whether as the practice of law through a law office or law firm or as a business through any type of business or entity that is not a law office, law firm or engaged in the practice of law;

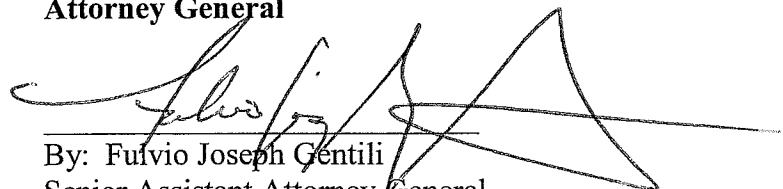
B. Awarding such equitable or other relief as is just and appropriate pursuant to § 895.05, Fla. Stat., including but not limited to civil forfeiture of property; and

C. Granting such other relief as this Honorable Court deems just and proper.

Dated this 10<sup>th</sup> day of January, 2012

Respectfully Submitted,

**PAMELA JO BONDI**  
**Attorney General**



By: Fulvio Joseph Gentili  
Senior Assistant Attorney General  
Fla. Bar No. 0037493  
Office of the Attorney General  
Department of Legal Affairs  
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(954) 527-3708 (fax)

**EXHIBIT A**

From Article at [GetOutOfDebt.org](http://www.GetOutOfDebt.org)

**Electronic Articles of Incorporation  
For**

P07000122383  
FILED  
November 09, 2007  
Sec. Of State  
clewis

THE CONSUMER LAW GROUP, P.A.

The undersigned incorporator, for the purpose of forming a Florida profit corporation, hereby adopts the following Articles of Incorporation:

**Article I**

The name of the corporation is:

THE CONSUMER LAW GROUP, P.A.

**Article II**

The principal place of business address:

2001 WEST SAMPLE ROAD  
SUITE 412  
POMPANO BEACH, FL. 33064

The mailing address of the corporation is:

2001 WEST SAMPLE ROAD  
SUITE 412  
POMPANO BEACH, FL. 33064

**Article III**

The purpose for which this corporation is organized is:

ANY AND ALL LAWFUL BUSINESS.

**Article IV**

The number of shares the corporation is authorized to issue is:

100

**Article V**

The name and Florida street address of the registered agent is:

MICHAEL L. METZNER, P.A.  
2001 WEST SAMPLE ROAD  
SUITE 412  
POMPANO BEACH, FL. 33064

I certify that I am familiar with and accept the responsibilities of registered agent.

P07000122383  
FILED  
November 09, 2007  
Sec. Of State  
clewis

Registered Agent Signature: MICHAEL L. METZNER

### Article VI

The name and address of the incorporator is:

MICHAEL L. METZNER  
2001 WEST SAMPLE ROAD  
SUITE 412  
POMPANO BEACH, FL 33064

Incorporator Signature: MICHAEL L. METZNER

### Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P  
MICHAEL L METZNER ESQ  
2001 WEST SAMPLE ROAD, SUITE 412  
POMPANO BEACH, FL. 33064 US

From Article at GetOutOfDebt.org

**EXHIBIT B**

From Article at [www.GetOutOfDebt.org](http://www.GetOutOfDebt.org)

**4 RULES OF PROFESSIONAL CONDUCT**  
**4-8 MAINTAINING THE INTEGRITY OF THE PROFESSION**

***RULE 4-8.6 AUTHORIZED BUSINESS ENTITIES***

**(a) Authorized Business Entities.** Lawyers may practice law in the form of professional service corporations, professional limited liability companies, sole proprietorships, general partnerships, or limited liability partnerships organized or qualified under applicable law. Such forms of practice are authorized business entities under these rules.

**(b) Practice of Law Limited to Members of The Florida Bar.** No authorized business entity may engage in the practice of law in the state of Florida or render advice under or interpretations of Florida law except through officers, directors, partners, managers, agents, or employees who are qualified to render legal services in this state.

**(c) Qualifications of Managers, Directors and Officers.** No person shall serve as a partner, manager, director or executive officer of an authorized business entity and engage in the practice of law in Florida unless such person is legally qualified to render legal services in this state. For purposes of this rule the term "executive officer" shall include the president, vice-president, or any other officer who performs a policy-making function.

**(d) Violation of Statute or Rule.** A lawyer who, while acting as a shareholder, member, officer, director, partner, proprietor, manager, agent, or employee of an authorized business entity and engaged in the practice of law in Florida, violates or sanctions the violation of the authorized business entity statutes or the Rules Regulating The Florida Bar shall be subject to disciplinary action.

**(e) Disqualification of Shareholder, Member, Proprietor, or Partner; Severance of Financial Interests.** Whenever a shareholder of a professional service corporation, a member of a professional limited liability company, proprietor, or partner in a limited liability partnership becomes legally disqualified to render legal services in this state, said shareholder, member, proprietor, or partner shall sever all employment with and financial interests in such authorized business entity immediately. For purposes of this rule the term "legally disqualified" shall not include suspension from the practice of law for a period of time less than 91 days. Severance of employment and financial interests required by this rule shall not preclude the shareholder, member, proprietor, or partner from receiving compensation based on legal fees generated for legal services performed during the time when the shareholder, member, proprietor, or partner was legally qualified to render legal services in this state. This



provision shall not prohibit employment of a legally disqualified shareholder, member, proprietor, or partner in a position that does not render legal service nor payment to an existing profit sharing or pension plan to the extent permitted in rules 3-6.1 and 4-5.4(a)(3), or as required by applicable law.

**(f) Cessation of Legal Services.** Whenever all shareholders of a professional service corporation, or all members of a professional limited liability company, the proprietor of a solo practice, or all partners in a limited liability partnership become legally disqualified to render legal services in this state, the authorized business entity shall cease the rendition of legal services in Florida.

**(g) Application of Statutory Provisions.** Unless otherwise provided in this rule, each shareholder, member, proprietor, or partner of an authorized business entity shall possess all rights and benefits and shall be subject to all duties applicable to such shareholder, member, proprietor, or partner provided by the statutes pursuant to which the authorized business entity was organized or qualified.

#### **Comment**

In 1961 this court recognized the authority of the legislature to enact statutory provisions creating corporations, particularly professional service corporations. But this court also noted that "[e]nabling action by this Court is therefore an essential condition precedent to authorize members of The Florida Bar to qualify under and engage in the practice of their profession pursuant to The 1961 Act." *In Re The Florida Bar*, 133 So. 2d 554, at 555 (Fla. 1961).

The same is true today, whatever the form of business entity created by legislative enactment. Hence, this rule is adopted to continue authorization for members of the bar to practice law in the form of a professional service corporation, a professional limited liability company, or a limited liability partnership. This rule also permits a member of the bar to practice law as a sole proprietor or as a member of a general partnership. These types of entities are collectively referred to as authorized business entities.

#### **Limitation on rendering legal services**

No person may render legal services on behalf of an authorized business entity unless that person is otherwise authorized to do so via membership in the bar or through a motion for leave to appear. Neither the adoption of this rule nor the statutory provisions alter this limitation.

#### **Employment by and financial interests in an authorized business entity**

This rule and the statute require termination of employment of a shareholder, member, proprietor, or partner when same is "legally disqualified" to render legal services. The purpose of this provision is to prohibit compensation based on fees for legal services rendered at a time when the shareholder, member, proprietor, or partner cannot render the same type of services. Continued engagement in capacities other than rendering legal services with the same or similar compensation would allow circumvention of prohibitions of sharing legal fees with one not qualified to render legal services. Other rules prohibit the sharing of legal fees with nonlawyers and this rule continues the application of that type of prohibition. However, nothing in this rule or the statute prohibits payment to the disqualified shareholder, member, proprietor, or partner for legal services rendered while the shareholder, member, proprietor, or partner was qualified to render same, even though payment for the legal services is not received until the shareholder, member, proprietor, or partner is legally disqualified.

Similarly, this rule and the statute require the severance of "financial interests" of a legally disqualified shareholder, member, proprietor, or partner. The same reasons apply to severance of financial interests as those that apply to severance of employment. Other provisions of these rules proscribe limits on employment and the types of duties that a legally disqualified shareholder, member, proprietor, or partner may be assigned.

Practical application of the statute and this rule to the requirements of the practice of law mandates exclusion of short term, temporary removal of qualifications to render legal services. Hence, any suspension of less than 91 days, including membership fees delinquency suspensions, is excluded from the definition of the term. These temporary impediments to the practice of law are such that with the passage of time or the completion of ministerial acts, the member of the bar is automatically qualified to render legal services. Severe tax consequences would result from forced severance and subsequent reestablishment (upon reinstatement of qualifications) of all financial interests in these instances.

However, the exclusion of such suspensions from the definition of the term does not authorize the payment to the disqualified shareholder, member, proprietor, or partner of compensation based on fees for legal services rendered during the time when the shareholder, member, proprietor, or partner is not personally qualified to render such services. Continuing the employment of a legally disqualified shareholder, member, proprietor, or partner during the term of a suspension of less than 91 days requires the authorized business entity to take steps to avoid the practice of law by the legally disqualified shareholder, member, proprietor, or partner, the ability of the legally disqualified shareholder, member, proprietor, or partner to control the actions of members of the bar qualified to render legal services, and payment of compensation to the legally disqualified shareholder, member, proprietor, or partner based on legal

services rendered while the legally disqualified shareholder, member, proprietor, or partner is not qualified to render them. Mere characterization of continued compensation, which is the same or similar to that the legally disqualified shareholder, member, proprietor, or partner received when qualified to render legal services, is not sufficient to satisfy the requirements of this rule.

### **Profit sharing or pension plans**

To the extent that applicable law requires continued payment to existing profit sharing or pension plans, nothing in this rule or the statute may abridge such payments. However, if permitted under applicable law the amount paid to the plan for a legally disqualified shareholder, member, proprietor, or partner shall not include payments based on legal services rendered while the legally disqualified shareholder, member, proprietor, or partner was not qualified to render legal services.

### **Interstate Practice**

This rule permits members of The Florida Bar to engage in the practice of law with lawyers licensed to practice elsewhere in an authorized business entity organized under the laws of another jurisdiction and qualified under the laws of Florida (or vice-versa), but nothing herein is intended to affect the ability of non-members of The Florida Bar to practice law in Florida. See, e.g., *The Florida Bar v. Savitt*, 363 So. 2d 559 (Fla. 1978).

The terms qualified and legally disqualified are imported from the Professional Service Corporation Act (Chapter 621, Florida Statutes).

[Revised: 01/01/2006]

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