

IN THE SUPREME COURT, STATE OF WYOMING

OCTOBER TERM, A.D. 1989

IN THE SUPREME COURT
STATE OF WYOMING
FILED

JAN - 5 1990

[Handwritten Signature]
CLERK

IN THE MATTER OF THE AMENDMENT OF)
THE DISCIPLINARY CODE AND ARTICLE IX,)
SECTION 3(a)(ii) OF THE BY-LAWS OF)
THE WYOMING STATE BAR.)

ORDER APPROVING AMENDED AND REWRITTEN RULES RELATING TO THE
DISCIPLINARY CODE AND ARTICLE IX, SECTION 3(a)(ii) OF THE BY-LAWS OF
THE WYOMING STATE BAR

Pursuant to the Wyoming Constitution, Articles 2 and 5, §§ 1 and 2 and W.S. 5-2-118, after consideration in conference and otherwise between the Officers and the Bar Commissioners of the Wyoming State Bar and this court, it is therefore

ORDERED that the Disciplinary Code for the Wyoming State Bar is amended and re-enacted to be restated, effective January 8, 1990, as attached hereto and incorporated herein; and it is further

ORDERED that Article IX, Section 3(a)(ii) of the By-Laws of the Wyoming State Bar be, and it is hereby, amended effective January 8, 1990, to read as follows:

Article IX, Section 3. Standing Boards.

(a) There shall be the following standing boards
of the Wyoming State Bar:

(ii) ~~Grievance Committee~~ BOARD
OF PROFESSIONAL
RESPONSIBILITY.

IT IS FURTHER ORDERED that the amended and re-enacted Disciplinary Code for the Wyoming State Bar, as attached and the foregoing amendment of Article IX, Section 3(a)(ii) of the By-Laws of the Wyoming State Bar be published in the Advance Sheets of the Pacific Reporter and thereafter in the Wyoming Reporter; and thereupon spread at length on the journal of this court.

Dated this 4 day of January, 1990.

BY THE COURT:

A handwritten signature in black ink, appearing to read "G. Joseph Cardine", written in a cursive style.

G. JOSEPH CARDINE
Chief Justice

**AMENDED RULES RELATING TO THE DISCIPLINARY CODE FOR
THE WYOMING STATE BAR**

**Rule I. Jurisdiction of court and ~~grievance committee~~ BOARD OF
PROFESSIONAL RESPONSIBILITY.**

Any attorney regularly admitted to practice law in this state or any attorney specially admitted to practice by a court of this state or any individual admitted to practice as an attorney in any other jurisdiction who regularly engages in the practice of law within this state as house counsel to corporations or other entities, counsel for governmental agencies or otherwise, OR ANY ATTORNEY WHO WAS SUBJECT TO THE JURISDICTION OF THIS COURT UNDER ANY OF THE ABOVE BUT WHOSE MEMBERSHIP IN THE BAR HAS BEEN SUSPENDED OR TERMINATED FOR NONPAYMENT OF DUES, FAILURE TO COMPLY WITH CONTINUING LEGAL EDUCATION REQUIREMENTS, OR ANY OTHER NONDISCIPLINARY REASON, is subject to the exclusive disciplinary jurisdiction of this court and the ~~grievance committee~~ STATE BOARD OF PROFESSIONAL RESPONSIBILITY hereinafter established.

The functions of the ~~committee~~ BOARD should be limited to matters concerning lawyer discipline, disability and ethics, provided the ~~committee~~ BOARD may assume investigative or adjudicative functions consistent with its role as an arm of the court, if such do not impair or jeopardize lawyer discipline and disability.

Nothing herein contained shall be construed to deny to any other court such powers as are necessary for that court to maintain control over proceedings conducted before it, such as the power of contempt.

Rule II. Grounds for discipline.

The license to practice law in this state is a continuing proclamation by the court that the holder is fit to be entrusted with the professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the court. It is the duty of all recipients of that privilege to conduct themselves at all times, both professionally and personally, in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law.

Acts or omissions by an attorney individually or in concert with any other person or persons, which violate the Rules of Professional Conduct as adopted by this court or any standards or rules that may be from time to time hereafter adopted by this court, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of any attorney-client relationship.

Failure to timely respond to a request from the ~~grievance committee~~ BOARD may be grounds for discipline.

Rule III. Types of discipline.

Misconduct shall be grounds for:

- (a) Disbarment; or
- (b) Suspension for a period not exceeding five (5) years; or
- (c) Public censure by the court; or
- (d) Reprimand by the ~~grievance committee~~ BOARD; or
- (e) Informal admonition by the ~~grievance committee~~ BOARD; or
- (f) Probation.

Rule IV. Appointment, functions and powers of ~~committee~~ BOARD AND BAR COUNSEL.

(a) The court shall appoint, upon the ~~recommendation~~ ADVICE OF THE PRESIDENT of the State Bar of Wyoming, a ~~committee~~ BOARD to be known as the "~~grievance committee~~ WYOMING STATE BOARD OF PROFESSIONAL RESPONSIBILITY" (hereinafter referred to as the "~~committee~~ BOARD, which shall consist of ~~five (5)~~ SEVEN 7 members, FIVE (5) of WHOM SHALL BE MEMBERS OF the Bar of this state AND TWO (2) OF WHOM SHALL BE NONLAWYERS, one of whom shall be designated by the court as chairman, a second as vice-chairman to act in the absence or disability of the chairman, and a third as second vice-chairman to act in the absence or disability of the chairman and vice-chairman.

(b) When the ~~committee~~ BOARD is first selected, ~~two (2)~~ THREE (3) of it members shall be appointed for a term of three (3) years (TWO LAWYERS AND ONE NONLAWYER), two (2) for a term of two (2) years (ONE LAWYER AND ONE NONLAWYER), and ~~one (1)~~ TWO (2) for a term of one (1) year (TWO LAWYERS), and thereafter all regular terms shall be three (3) years. LAWYERS MUST SUCCEED LAWYERS AND NONLAWYERS MUST SUCCEED NONLAWYERS ON THE BOARD. No member shall serve for more than six (6) consecutive years; a member may be reappointed after a lapse of one (1) year. The ~~committee~~ BOARD shall act only with a concurrence of a majority of a quorum. ~~Three (3)~~ FOUR (4) members shall constitute a quorum.

(c) The ~~committee~~ BOARD shall be a unitary entity whose function shall be the investigation of allegations of misconduct (hereinafter referred to as a grievance) on the part of an attorney subject to the jurisdiction of this code; determination of the truthfulness of such allegations; making recommendations regarding discipline to the Wyoming Supreme Court; and taking all other actions authorized by this code. While it must provide for and administer both ~~investigatory~~ PROSECUTORIAL and adjudicative functions, these functions shall be separated within the ~~committee~~ BOARD insofar as practicable IN ORDER TO AVOID UNFAIRNESS. THE PROSECUTORIAL FUNCTIONS SHALL BE DIRECTED BY BAR COUNSEL, WHO SHALL BE A LAWYER AND A MEMBER OF THE WYOMING STATE BAR, AND PERFORMED, INsofar AS PRACTICABLE, BY BAR COUNSEL OR OTHER EMPLOYEES OF THE WYOMING STATE BAR. THE ADJUDICATIVE FUNCTIONS SHALL BE PERFORMED BY THE BOARD.

~~(1) The committee shall consider grievances and responses thereto, and the committee or any member thereof may perform limited and informal investigation, including an informal conference with the responding~~

attorney, for the purpose of determining:

- ~~-(i)---If dismissal of the grievance is justified;~~
- ~~-(ii)---If formal investigation is warranted; or~~
- ~~-(iii)---If the matter should be concluded by private reprimand or informal admonition.~~

~~-(2)---When serious allegations of misconduct are indicated and when formal investigation is deemed appropriate, it shall be performed or supervised by counsel retained for that purpose who shall report his findings to the Attorney General.~~

~~-(3)---The prosecutorial function shall be directed and performed by the Attorney General who may, upon receipt of the investigation report from the investigating counsel:~~

- ~~-(i)---Proceed under Rule 6;~~
- ~~-(ii)---Present all evidence of misconduct by the attorney to the committee; or,~~
- ~~-(iii)---Recommend to the committee that the grievance be dismissed. Such recommendation shall not be binding upon the committee.~~

~~-(4)---The adjudicative function shall be performed by the committee.~~

(d) The committee BOARD shall have the FOLLOWING powers AND DUTIES:

(1) To consider and cause to be investigated the conduct of any attorney within the jurisdiction of this court and may initiate any such investigation on its own motion or may undertake the same upon the written complaints of any person;

(2) To ~~retain~~ ENLIST THE SERVICES OF BAR counsel HIRED BY THE WYOMING STATE BAR ~~to conduct any investigation. Investigating counsel shall be a reputable and experienced member of the Bar and shall be appointed by and serve at the pleasure of the committee;~~

(3) To enlist the assistance of the judges of the courts and of all members of the Bar to accomplish its objectives (it being the duty of all members of the Wyoming State Bar upon request to assist the ~~committee~~ BOARD in all reasonable ways);

(4) To review ~~grievances~~ RECOMMENDATIONS OF BAR COUNSEL FOR DISPOSITION OF DISCIPLINARY MATTERS AND PETITIONS FOR TRANSFER TO AND FROM DISABILITY INACTIVE STATUS;

(5) TO APPROVE, MODIFY, OR DISAPPROVE THE RECOMMENDATIONS OF BAR COUNSEL, dismiss grievances or to cause further investigation to be performed;

~~(6) -- To administer and direct formal disciplinary proceedings;~~

~~(7) (6)~~ To conclude grievance matters by PRIVATE reprimand or informal admonition;

(7) TO ADMINISTER AND DIRECT FORMAL DISCIPLINARY PROCEEDINGS;

(8) TO CONDUCT PREHEARING CONFERENCES REGARDING FORMAL CHARGES OF MISCONDUCT, PETITIONS FOR REINSTATEMENT OR READMISSION, AND PETITIONS FOR TRANSFER TO AND FROM DISABILITY INACTIVE STATUS;

(9) TO CONSIDER AND DECIDE PREHEARING MOTIONS;

~~(8) (10)~~ To recommend to this court public reprimand CENSURE, SUSPENSION OR DISBARMENT;

~~(9) (11)~~ To place offending attorneys upon a probationary status for a period not to exceed two (2) years, upon conditions to be established by the committee BOARD in writing;

~~(10) (12)~~ As a condition of probation, to require a respondent to make restitution to persons financially injured by the respondent's conduct and to require reimbursement to the client's security fund (see Rules OF THE 22, Supreme Court ~~Rules Providing for the Organization and Government of the Bar Association of the Attorneys at Law of the State of Wyoming~~ REGARDING THE CLIENT'S SECURITY FUND);

~~(11) (13)~~ To exercise all powers and duties as established by law;

~~(12) --- To hold an informal conference with any attorney;~~

~~(13) --- To adopt rules of procedure not inconsistent with the rules promulgated by this court. A copy of the committee's Rules and any amendments thereto shall be filed promptly with the clerk of the Supreme Court;~~

(14) To maintain records of all matters processed by the committee BOARD and the disposition thereof:

~~(1) (A)~~ When a grievance is dismissed as being without merit, or when an admonishment is ordered by the ~~grievance committee~~ BOARD, records relating

to the matter shall be retained for a period of two (2) years;

~~(ii)~~(B) Records relating to a private reprimand shall be retained for a period of six (6) years;
~~(iii)~~(C) Records relating to disbarment, suspension, public reprimands and probation shall be kept permanently.

(15) To assure compliance with an order of suspension, disbarment or probation.;

(16) TO INFORM THE PUBLIC ABOUT THE EXISTENCE AND OPERATION OF THE SYSTEM AND THE DISPOSITION OF EACH MATTER IN WHICH PUBLIC DISCIPLINE HAS BEEN IMPOSED, A LAWYER HAS BEEN TRANSFERRED TO OR FROM DISABILITY INACTIVE STATUS, OR A LAWYER HAS BEEN REINSTATED OR READMITTED;

(17) TO DELEGATE, IN ITS DISCRETION, TO THE CHAIRMAN OR THE VICE CHAIRMAN THE POWER TO ACT FOR THE BOARD ON ADMINISTRATIVE AND PROCEDURAL MATTERS.

(e) BAR COUNSEL SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(1) TO REVIEW ALL INFORMATION COMING TO THE ATTENTION OF THE BOARD TO DETERMINE WHETHER A VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT IS ALLEGED;

(2) TO INVESTIGATE ALL INFORMATION COMING TO THE ATTENTION OF THE BOARD WHICH, IF TRUE, WOULD BE GROUNDS FOR DISCIPLINE OR TRANSFER TO DISABILITY INACTIVE STATUS AND INVESTIGATE ALL FACTS PERTAINING TO PETITIONS FOR REINSTATEMENT OR READMISSION;

(3) TO RECOMMEND DISMISSAL, PROBATION, INFORMAL ADMONITION, PRIVATE REPRIMAND, A STAY, THE FILING OF FORMAL CHARGES, OR THE PETITIONING FOR TRANSFER TO DISABILITY INACTIVE STATUS WITH RESPECT TO EACH MATTER BROUGHT TO THE ATTENTION OF THE BOARD;

(4) TO PROSECUTE BEFORE THE BOARD AND THE COURT DISCIPLINE, REINSTATEMENT AND READMISSION PROCEEDINGS, AND PROCEEDINGS FOR TRANSFER TO OR FROM DISABILITY INACTIVE STATUS;

(5) TO EMPLOY AND SUPERVISE (SUBJECT TO THE APPROVAL OF THE STATE BAR) STAFF NEEDED FOR THE PERFORMANCE OF PROSECUTORIAL FUNCTIONS AND, WHEN CIRCUMSTANCES NECESSITATE THEIR USE, APPOINT AND SUPERVISE ASSISTANT COUNSEL;

(6) TO NOTIFY PROMPTLY THE COMPLAINANT AND RESPONDENT OF THE DISPOSITION OF EACH MATTER;

(7) TO NOTIFY EACH JURISDICTION IN WHICH A LAWYER IS ADMITTED WHICH IS KNOWN TO BAR COUNSEL OF A TRANSFER TO OR FROM DISABILITY INACTIVE STATUS, REINSTATEMENT, READMISSION, OR ANY PUBLIC DISCIPLINE IMPOSED IN THIS STATE;

(8) TO SEEK RECIPROCAL DISCIPLINE WHEN INFORMED OF ANY PUBLIC DISCIPLINE IMPOSED IN ANY OTHER JURISDICTION;

(9) TO FORWARD A CERTIFIED COPY OF THE JUDGMENT OF CONVICTION TO THE DISCIPLINARY AGENCY IN EACH JURISDICTION IN WHICH A LAWYER IS ADMITTED WHEN THE LAWYER IS CONVICTED OF A SERIOUS CRIME (AS HEREINAFTER DEFINED) IN THIS STATE;

(10) TO UNDERTAKE, PURSUANT TO DIRECTIONS FROM THE BOARD, WHATEVER INVESTIGATIONS ARE ASSIGNED TO BAR COUNSEL;

(11) TO REPORT TO THE BOARD IN WRITING NO LESS THAN QUARTERLY REGARDING ALL PENDING MATTERS BEFORE THE BOARD.

Rule V. Initial procedure.

(a) The ~~committee~~ BOARD OR BAR COUNSEL shall initiate or cause to be initiated all investigations. All attorneys receiving complaints shall cause the same to be forwarded to the ~~committee~~ BOARD. It shall be the duty of each court of record to report in writing to the ~~committee~~ BOARD any action or inaction on the part of any attorney appearing before it or in its jurisdiction which, in the opinion of the court, constitutes probable cause for discipline.

(b) Upon receiving a written complaint, BAR COUNSEL ~~the committee~~ shall ~~cause such investigation to be made as it shall deem appropriate.~~ CONDUCT AN INVESTIGATION INTO THE ALLEGATIONS OF THE COMPLAINT WHICH MAY INCLUDE OBTAINING A STATEMENT FROM THE RESPONDENT ATTORNEY.

(c) Upon completion of an ~~limited and informal~~ investigation, ~~the committee~~ BAR COUNSEL shall:

(1) If ~~it~~ DETERMINED ~~determines~~ the complaint is not meritorious, MOVE TO DISMISS THE COMPLAINT. IF THE COMPLAINT IS DISMISSED BY THE BOARD, BAR COUNSEL SHALL notify the complainant and such other persons as ~~the committee~~ BAR COUNSEL may deem appropriate;

(2) If it DETERMINED ~~determines~~ the complaint to be IS meritorious, ~~it shall cause written notice of its findings and of its proposed action, including notice of the commencement of a formal investigation, to be sent to the attorney involved; the attorney involved shall then have twenty (20) days in which to either accede to the findings and proposed action or to request an informal conference with the committee. Failure to respond shall be deemed to be an agreement with the findings and proposed action, or proposed course of action, of the committee;~~ CAUSE FORMAL CHARGES IN A COMPLAINT FOR FORMAL DISCIPLINARY PROCEEDINGS TO BE DRAFTED, SUPPORTED BY AFFIDAVIT OR OTHER STATEMENT UNDER OATH, WHICH SHALL BE REVIEWED BY THE CHAIRMAN OF THE BOARD OR ANOTHER MEMBER OF THE BOARD DESIGNATED BY THE CHAIRMAN IF THE CHAIRMAN HAS A CONFLICT IN A PARTICULAR MATTER FOR DETERMINATION OF PROBABLE CAUSE TO PROCEED WITH THE FILING OF FORMAL CHARGES. IF THE CHAIRMAN OR DESIGNEE FINDS PROBABLE CAUSE TO FILE FORMAL CHARGES EXISTS, BAR COUNSEL SHALL FILE THE COMPLAINT FOR FORMAL DISCIPLINARY PROCEEDINGS WITH THE BOARD AS PROVIDED IN RULE IV(d)(7) AND (e)(4).

(3) ~~The committee shall dismiss, privately reprimand, admonish or direct the commencement of a formal investigation.~~ THE BOARD AND THE RESPONDENT MAY STIPULATE TO THE IMPOSITION OF PRIVATE DISCIPLINE BEFORE FORMAL CHARGES IN A COMPLAINT FOR FORMAL DISCIPLINARY PROCEEDINGS ARE FILED.

(d) The complainant shall be advised of BAR COUNSEL'S OR the ~~committee's~~ BOARD'S action within ten (10) days after the same has been completed AND OF THE RIGHT TO APPEAL SUCH ACTION AS PROVIDED IN RULE VII.

(e) ~~Upon the dismissal by the committee of a complaint which the committee determines has no merit, or upon the completion of informal proceedings against the attorney by the committee in which the attorney has been privately reprimanded, or informally admonished by the committee, the complainant may petition the Supreme Court for review of the committee's action. The complainant must file a petition in the Supreme Court for review of the committee's action. The complainant must file a petition in the Supreme Court which specifies the provisions of the Rules of Professional Conduct allegedly violated by the attorney and also specifies the particular facts which should have led the committee to a different conclusion. Such petition shall be accompanied by a full copy of the committee's file in the matter, prepared at the expense of the complainant petitioning for review.~~

Rule VI. Formal disciplinary procedure.

(a) Upon completion of an formal investigation WHERE

FORMAL CHARGES ARE DEEMED WARRANTED UNDER RULE V(C)(2), BAR ~~investigating~~ counsel shall ~~report the results of that investigation to the Attorney General.~~ ~~The Attorney General may move the committee to dismiss the grievance but such recommendation shall not be binding on the committee.~~ ~~Otherwise, the Attorney General shall~~ initiate the prosecution of the action, by the filing of a formal complaint with the ~~grievance committee~~ BOARD, and thereafter conduct the necessary steps to complete the prosecution of the action.

(b)(1) ~~Notice and process relating to the institution of formal proceedings shall be as provided in the rules of procedure adopted by the committee.~~ SERVICE UPON THE RESPONDENT OF A FORMAL COMPLAINT OR PETITION IN ANY DISCIPLINARY OR DISABILITY PROCEEDING SHALL BE MADE BY PERSONAL SERVICE, BY ANY PERSON AUTHORIZED BY THE CHAIRMAN OF THE BOARD, OR BY REGISTERED OR CERTIFIED MAIL AT AN ADDRESS SHOWN IN THE OFFICIAL RECORDS OF THE WYOMING STATE BAR. Whenever an attorney cannot with reasonable diligence be found or served with process at his last known office or home address, then the clerk of the Wyoming Supreme Court shall be deemed the agent for the attorney upon whom any such notice, process or demand may be served. Service on the clerk of any such notice, process or demand shall be made by delivering to and leaving with the clerk, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the clerk, the clerk shall immediately cause one (1) of the copies to be forwarded by certified mail, return receipt requested, addressed to the attorney at his last known address as shown in the records of the Wyoming State Bar. The date of mailing shall be deemed the date of service.

(2) If the attorney named as the respondent in the complaint fails to answer the complaint within the time provided by the rules of procedure adopted by the ~~committee~~ BOARD or such further time as allowed by the ~~committee~~ BOARD on the motion of the respondent, ~~the Attorney General~~ BAR COUNSEL may file a motion for entry of an order of default. The ~~Grievance Committee~~ BOARD shall cause copies of the motion to be served on the respondent, together with a notice that default will be entered if the respondent fails to answer the complaint within then (10) days after service of the notice on the respondent. If the respondent fails to answer the complaint within the time allowed the ~~committee~~ BOARD may:

(A) Set the motion for hearing;

(B) Require ~~the Attorney General~~ BAR COUNSEL to provide affidavits or other evidence in support of any of the allegations in the complaint; or

(C) Enter an order of default on the complaint.

(3) Upon the entry of an order of default the ~~committee~~ BOARD shall file its order with the clerk of the Supreme Court, together with the entire record of the ~~committee~~ BOARD in the matter and the ~~committee's~~ BOARD'S recommendation of discipline.

(4) The Supreme Court shall review the record of the proceedings and take whatever action the court deems appropriate, including:

- (A) The imposition of discipline;
- (B) Dismissal of the complaint; or
- (C) Remand the matter to the ~~committee~~ BOARD for further consideration or proceedings.

(c) A RESPONDENT SHALL FILE HIS OR HER ANSWER WITH THE BOARD AND SERVE THE SAME UPON BAR COUNSEL WITHIN TWENTY (20) DAYS AFTER THE SERVICE OF THE SUMMONS AND COMPLAINT UPON THE RESPONDENT.

(d)(1) WITHIN THIRTY (30) DAYS FOLLOWING THE FILING OF AN ANSWER, BAR COUNSEL AND RESPONDENT SHALL EXCHANGE THE NAMES AND ADDRESSES OF ALL PERSONS HAVING KNOWLEDGE OF RELEVANT FACTS. WITHIN SIXTY (60) DAYS FOLLOWING THE FILING OF AN ANSWER OR SUCH OTHER TIME AS MAY BE ALLOWED BY THE BOARD, BAR COUNSEL AND THE RESPONDENT MAY TAKE DEPOSITIONS IN ACCORDANCE WITH RULES 27, 28 AND 30 OF THE WYOMING RULES OF CIVIL PROCEDURE AND SHALL COMPLY WITH REASONABLE REQUESTS FOR (1) NON-PRIVILEGED INFORMATION AND EVIDENCE RELEVANT TO THE CHARGES OR THE RESPONDENT, AND (2) OTHER MATERIALS UPON GOOD CAUSE SHOWN TO THE CHAIRMAN OF THE BOARD.

(2) DISPUTES CONCERNING DISCOVERY SHALL BE DETERMINED BY THE CHAIRMAN OF THE BOARD OR SUCH OTHER MEMBER OF THE BOARD AS THE CHAIRMAN MAY DESIGNATE. ALL DISCOVERY ORDERS BY THE CHAIRMAN OR SUCH OTHER BOARD MEMBER ARE INTERLOCUTORY AND MAY NOT BE APPEALED PRIOR TO THE ENTRY OF THE FINAL ORDER.

(3) PROCEEDINGS UNDER THESE RULES ARE NOT SUBJECT TO THE WYOMING RULES OF CIVIL PROCEDURE REGARDING DISCOVERY EXCEPT THOSE RELATING TO DEPOSITIONS AND SUBPOENAS.

(e) AT THE DISCRETION OF THE BOARD UPON THE REQUEST OF EITHER PARTY, A PREHEARING CONFERENCE MAY BE ORDERED FOR THE PURPOSE OF OBTAINING ADMISSIONS, OTHERWISE NARROWING THE ISSUES PRESENTED BY THE PLEADINGS OR ADDRESSING SUCH OTHER MATTERS AS MAY AID IN THE DISPOSITION OF THE CASE. THE CONFERENCE SHALL BE HELD BEFORE THE CHAIRMAN OF THE BOARD OR ANOTHER MEMBER OF THE BOARD DESIGNATED BY THE CHAIRMAN. THE CHAIRMAN OR OTHER MEMBER OF THE BOARD DESIGNATED BY THE CHAIRMAN MAY DIRECT THE PARTIES TO SUBMIT PROPOSED FINDINGS OR MEMORANDA OF LAW AS DEEMED NECESSARY EITHER PRIOR OR SUBSEQUENT TO THE CONFERENCE.

~~(e)~~ (f) (1) All hearings shall be before the ~~committee-~~ BOARD and shall be conducted AS NEARLY AS POSSIBLE IN ACCORDANCE WITH THE FOLLOWING ORDER ~~-in-conformity-with-the~~ ~~committee's-rules~~ of procedure. A complete record, either by stenographic or electronic means, shall be made of all formal disciplinary proceedings.

(2) THE CHAIRMAN SHALL ANNOUNCE THAT THE BOARD IS CONVENED FOR A FORMAL HEARING AND CALL BY DOCKET NUMBER AND TITLE THE CASE TO BE HEARD.

(3) BAR COUNSEL WILL BE ALLOWED AN OPENING STATEMENT TO BRIEFLY EXPLAIN COUNSEL'S POSITION TO THE COMMITTEE AND OUTLINE THE EVIDENCE COUNSEL PROPOSES TO OFFER, TOGETHER WITH THE PURPOSE THEREOF.

(4) THE RESPONDENT WILL BE ALLOWED AN OPENING STATEMENT.

(5) BAR COUNSEL'S EVIDENCE WILL BE HEARD. WITNESSES MAY BE CROSS-EXAMINED BY THE RESPONDENT OR RESPONDENT'S ATTORNEY AND BY MEMBERS OF THE BOARD. BAR COUNSEL'S EXHIBITS WILL BE MARKED BY LETTERS OF THE ALPHABET BEGINNING WITH "A".

(6) THE EVIDENCE OF THE RESPONDENT WILL BE HEARD, AND EXHIBITS OF THE RESPONDENT WILL BE MARKED WITH NUMBERS, BEGINNING WITH "1". BAR COUNSEL AND EACH MEMBER OF THE BOARD SHALL HAVE THE RIGHT TO CROSS-EXAMINE ALL WITNESSES PRESENTED ON BEHALF OF THE RESPONDENT.

(7) BAR COUNSEL MAY OFFER REBUTTAL EVIDENCE.

(8) THE BOARD MAY, IN ITS DISCRETION, ALLOW EVIDENCE TO BE OFFERED OUT OF ORDER.

(9) CLOSING STATEMENTS WILL BE MADE IN THE FOLLOWING SEQUENCES:

- (A) BAR COUNSEL;
- (B) RESPONDENT;
- (C) BAR COUNSEL IN REBUTTAL.

THE TIME FOR ORAL ARGUMENT MAY BE LIMITED BY THE CHAIRMAN.

(10) THE CHAIRMAN MAY RECESS THE HEARING AS REQUIRED.

(11) AFTER BAR COUNSEL AND THE RESPONDENT HAVE BEEN OFFERED AN OPPORTUNITY TO BE HEARD, THE CHAIRMAN SHALL DECLARE THE EVIDENCE CLOSED AND EXCUSE ALL WITNESSES. THE EVIDENCE OF THE CASE MAY BE REOPENED AT A LATER DATE, FOR GOOD CAUSE SHOWN,

BY ORDER OF THE BOARD UPON MOTION OF ANY PARTY TO THE PROCEEDING, THE CHAIRMAN, OR THE BOARD ITSELF.

(12) PARTIES MAY TENDER BRIEFS OR THE BOARD MAY CALL FOR SUCH BRIEFS AS MAY DESIRABLE.

(13) THE BOARD MAY REQUEST PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW FROM BAR COUNSEL AND THE RESPONDENT.

(14) AFTER THE CLOSE OF THE HEARING, THE BOARD SHALL PROCEED IN ACCORDANCE WITH SUBSECTION (G) OF THIS RULE.

~~(d)~~ (15) The chairman, vice-chairman, or second vice-chairman, as the case may be, shall have the authority to administer oaths, to compel the attendance of witnesses, to require the production of evidence and to enforce discipline and control, substantially similar to that of a district judge, including the power of subpoena and the power to punish by contempt proceedings any failure to abide by the directions of the committee.

~~(e)~~ ---- If the respondent attorney fails to appear and contest the allegations in the complaint at the time the complaint is set for hearing, whether or not the respondent has answered the complaint, the attorney general BAR COUNSEL, in lieu of proceeding with the hearing, may move for an order of entry of default. All further proceedings shall be conducted pursuant to paragraph (b) of this rule.

~~(f)~~ --- If a respondent attorney against whom discipline has been imposed by default under paragraphs (b) or (e) of this rule, seeks to set aside the default, he shall apply directly to the Supreme Court pursuant to Rules 55(c) and 60(b) of the Wyoming Rules of Civil Procedure. The Supreme Court may set aside a default for good cause shown.

~~(g)~~ -- Information regarding prior discipline of a respondent shall not be relevant to the issue of whether the conduct alleged has occurred. Information regarding prior discipline may be relevant to the issue of the discipline to be imposed but such information shall not be divulged to the committee until after there has been a finding of misconduct in the present matter.

~~(b)~~ (g) (1) At the conclusion of any formal disciplinary proceeding, the committee BOARD, or a majority of the quorum, shall make a report of its findings and recommendations.

(2) If it shall be found that the charges have not been proved by clear and convincing evidence, the

~~committee~~ BOARD shall enter an order dismissing the complaint, and the matter shall be terminated. ~~Any person who has filed a complaint in the proceedings and who desires the matter to be reviewed by the Supreme Court may petition such court for review by stating with particularity the facts which he believes the committee to have misapprehended or overlooked in the proper determination of the cause; provided, further, that the petition shall be accompanied by a full transcript of the proceedings prepared at the expense of the party petitioning for review.~~

(3) If the committee BOARD finds the charges have been proved by clear and convincing evidence, it shall recommend discipline and the extent thereof, filing a copy of its report, findings, recommendations and any minority views with the clerk of the Supreme Court and mailing a copy thereof to the respondent-attorney and to counsel who is representing respondent in the proceedings.

~~(1)~~(4) Whenever the committee BOARD shall recommend to the Supreme Court that an attorney be disciplined and shall file its report, findings and recommendations with the clerk of the Supreme Court (with a copy mailed to the respondent-attorney and his or her counsel), the said respondent-attorney shall within twenty (20) days after the mailing of such copy file with the clerk of the Supreme Court six (6) copies of:

~~(1)~~(A) A statement that respondent does not wish to file exceptions to the report, findings and recommendations; or

~~(2)~~(B) Respondent's exceptions to said report stating the explicit reasons for the exceptions together with a brief prepared in accordance with Rule 5.01 of the Wyoming Rules of Appellate Procedure.

If the respondent-attorney files a statement that respondent does not wish to file exceptions to the report or, if the respondent-attorney fails to respond, the court shall proceed with such discipline as it may determine to be proper. If the respondent-attorney files exceptions as required herein, properly supported with a brief and a transcript or relevant portions thereof, the court immediately shall calendar the matter for such briefs or arguments as it may deem appropriate and shall thereafter enter its judgment. During its review, the Supreme Court shall not receive or consider any evidence that was not presented to the committee BOARD.

RULE VII. APPEALS.

UPON THE DISMISSAL BY THE BOARD OF A COMPLAINT WHICH THE BOARD DETERMINES HAS NO MERIT, OR UPON THE COMPLETION OF INFORMAL PROCEEDINGS AGAINST THE ATTORNEY BY THE BOARD IN WHICH THE ATTORNEY HAS BEEN PRIVATELY REPRIMANDED OR INFORMALLY ADMONISHED BY THE BOARD, OR UPON THE COMPLETION OF FORMAL PROCEEDINGS AGAINST THE ATTORNEY IN WHICH THE COMPLAINT AGAINST THE ATTORNEY HAS BEEN DISMISSED BY THE BOARD, THE COMPLAINANT MAY PETITION THE SUPREME COURT FOR REVIEW OF THE BOARD'S ACTION WITHIN THIRTY (30) DAYS OF NOTIFICATION OF SAID ACTION. THE COMPLAINANT MUST FILE A PETITION IN THE SUPREME COURT FOR REVIEW OF THE BOARD'S ACTION. THE COMPLAINANT MUST FILE A PETITION IN THE SUPREME COURT WHICH SPECIFIES THE PROVISIONS OF THE RULES OF PROFESSIONAL CONDUCT ALLEGEDLY VIOLATED BY THE ATTORNEY AND ALSO SPECIFIES THE PARTICULAR FACTS WHICH SHOULD HAVE LED THE BOARD TO A DIFFERENT CONCLUSION. A FULL COPY OF THE BOARD'S FILE IN THE MATTER, PREPARED AT THE EXPENSE OF THE COMPLAINANT PETITIONING FOR REVIEW, SHALL BE TRANSMITTED BY THE BOARD TO THE SUPREME COURT.

Rule VIII. SUBPOENA POWER.

(a) ANY MEMBER OF THE BOARD IN MATTERS BEFORE IT, BAR COUNSEL IN MATTERS UNDER INVESTIGATION BY HIM OR HER, AND ANY PERSON AUTHORIZED BY LAW MAY ADMINISTER OATHS AND AFFIRMATIONS.

(b) IF AN ATTORNEY DOES NOT COOPERATE WITH AN INVESTIGATION BY BAR COUNSEL BY PROVIDING REQUESTED INFORMATION OR DOCUMENTS, THE BOARD MAY COMPEL BY SUBPOENA THE ATTENDANCE OF WITNESSES, AND THE PRODUCTION OF PERTINENT BOOKS, PAPERS, AND DOCUMENTS.

(c) AFTER FORMAL CHARGES ARE FILED, BAR COUNSEL OR RESPONDENT MAY COMPEL BY SUBPOENA THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF PERTINENT BOOKS, PAPERS, AND DOCUMENTS AT A DEPOSITION OR HEARING UNDER THESE RULES.

(d) ANY ATTACK ON THE VALIDITY OF A SUBPOENA SO ISSUED SHALL BE HEARD AND DETERMINED BY THE CHAIRMAN OF THE BOARD. ANY RESULTING ORDER IS NOT APPEALABLE PRIOR TO ENTRY OF A FINAL ORDER IN THE PROCEEDING.

(e) IN CASE OF CONTUMACY OR REFUSAL TO OBEY A SUBPOENA ISSUED BY THE BOARD IN A CONTESTED CASE, DEPOSITION OR DISCOVERY RELATING THERETO, TO ANY PERSON, THE DISTRICT COURT FOR THE DISTRICT IN WHICH THE HEARING OR DEPOSITION OR OTHER PROCEEDING IS BEING CONDUCTED SHALL UPON APPLICATION BY THE BOARD ISSUE TO THE PERSON REFUSING TO OBEY THE SUBPOENA AN ORDER REQUIRING THE PERSON TO APPEAR BEFORE THE BOARD OR

OTHER PERSON DESIGNATED BY IT THERE TO PRODUCE DOCUMENTARY EVIDENCE IF SO ORDERED OR THERE TO GIVE EVIDENCE TOUCHING THE MATTER IN QUESTION. ANY FAILURE TO OBEY THE ORDER OF COURT MAY BE PUNISHED BY THE COURT AS A CONTEMPT THEREOF.

(f) SUBPOENA AND WITNESS FEES AND MILEAGE SHALL BE THE SAME AS THOSE PROVIDED FOR PROCEEDINGS IN THE DISTRICT COURTS OF THE STATE OF WYOMING.

(g) WHENEVER A SUBPOENA IS SOUGHT IN THIS STATE PURSUANT TO THE LAW OF ANOTHER JURISDICTION FOR USE IN LAWYER DISCIPLINE OR DISCIPLINARY PROCEEDINGS, THE CHAIRMAN OF THE BOARD, UPON PETITION FOR GOOD CAUSE, MAY ISSUE A SUBPOENA AS PROVIDED IN THIS SECTION TO COMPEL THE ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS.

Rule IX. DISSEMINATION OF DISCIPLINARY INFORMATION.

(a) BAR COUNSEL SHALL TRANSMIT NOTICE OF PUBLIC DISCIPLINE, TRANSFERS TO OR FROM DISABILITY INACTIVE STATUS, REINSTATEMENTS, READMISSIONS, AND CERTIFIED COPIES OF JUDGMENTS OF CONVICTION TO THE DISCIPLINARY ENFORCEMENT AGENCY OF EVERY OTHER JURISDICTION IN WHICH THE RESPONDENT IS KNOWN TO BE ADMITTED.

(b) BAR COUNSEL SHALL ASSIST THE STATE BAR IN DISSEMINATION OF INFORMATION REGARDING PUBLIC DISCIPLINE IMPOSED UPON AN ATTORNEY IN ACCORDANCE WITH THE OFFICIAL POLICY OF THE WYOMING STATE BAR.

(c) BAR COUNSEL SHALL PROMPTLY TRANSMIT A COPY OF THE ORDER OF SUSPENSION, DISBARMENT, REINSTATEMENT, AND TRANSFER TO OR FROM DISABILITY INACTIVE STATUS TO ALL COURTS OF RECORD IN THIS STATE. IN ADDITION, BAR COUNSEL SHALL REQUEST THE PRESIDING JUDGE OF THE COURT OF THE JUDICIAL DISTRICT IN WHICH A RESPONDENT WHO TRANSFERRED TO DISABILITY INACTIVE STATUS OR IS OTHERWISE UNABLE TO COMPLY WITH THE REQUIREMENTS OF RULE XX MAINTAINED AN OFFICE FOR THE PRACTICE OF LAW TO TAKE SUCH ACTION UNDER THE PROVISIONS OF RULE XXI AS MAY BE INDICATED IN ORDER TO PROTECT THE INTERESTS OF THE RESPONDENT AND THE RESPONDENT'S CLIENTS.

Rule X. ADDITIONAL RULES OF PROCEDURE.

(a) DISCIPLINARY PROCEEDINGS ARE NEITHER CIVIL OR CRIMINAL BUT ARE SUI GENERIS.

(b) EXCEPT AS OTHERWISE PROVIDED IN THESE RULES, THE WYOMING RULES OF CIVIL PROCEDURE AND THE WYOMING RULES OF EVIDENCE APPLY IN DISCIPLINE AND DISABILITY CASES. HOWEVER, NARRATIVE TESTIMONY WILL BE ALLOWED DURING FORMAL HEARINGS.

(c) ANY PAPERS OR DOCUMENTS REQUIRED TO BE FILED UNDER

THESE RULES SHALL BE FILED WITH THE CHAIRMAN OF THE BOARD AT THE OFFICES OF THE WYOMING STATE BAR UNLESS FILING IS OTHERWISE PROVIDED FOR IN THESE RULES.

(d) FORMAL CHARGES OF MISCONDUCT, PETITIONS FOR REINSTATEMENT AND READMISSION, AND PETITIONS FOR TRANSFER TO AND FROM DISABILITY INACTIVE STATUS SHALL BE ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE.

(e) THE BURDEN OF PROOF IN PROCEEDINGS SEEKING DISCIPLINE OR TRANSFER TO DISABILITY INACTIVE STATUS IS ON BAR COUNSEL. THE BURDEN OF PROOF IN PROCEEDINGS SEEKING REINSTATEMENT, READMISSION OR TRANSFER FROM DISABILITY INACTIVE STATUS IS ON THE RESPONDENT.

(f) THE HEARING SHALL BE RECORDED. UPON RESPONDENT'S REQUEST, BAR COUNSEL SHALL MAKE THE RECORD OF A HEARING AVAILABLE TO THE RESPONDENT AT THE RESPONDENT'S EXPENSE.

(g) IF THE RESPONDENT-ATTORNEY FAILS TO APPEAR AND CONTEST THE ALLEGATIONS AND THE COMPLAINT AT THE TIME THE COMPLAINT IS SET FOR HEARING, WHETHER OR NOT THE RESPONDENT HAS ANSWERED THE COMPLAINT, BAR COUNSEL, IN LIEU OF PROCEEDING WITH THE HEARING, MAY MOVE FOR AN ORDER OF ENTRY OF DEFAULT. ALL FURTHER PROCEEDINGS SHALL THEN BE CONDUCTED PURSUANT TO RULE VI(b) OF THESE RULES.

(h) IF THE RESPONDENT-ATTORNEY AGAINST WHOM DISCIPLINE HAS BEEN IMPOSED BY DEFAULT UNDER RULE VI(b) OR PARAGRAPH (f) OF THIS RULE SEEKS TO SET ASIDE THE DEFAULT, RESPONDENT SHALL APPLY DIRECTLY TO THE SUPREME COURT PURSUANT TO RULES 55(c) AND 60(b) OF THE WYOMING RULES OF CIVIL PROCEDURE. THE SUPREME COURT MAY SET ASIDE A DEFAULT FOR GOOD CAUSE SHOWN.

(i) INFORMATION REGARDING PRIOR DISCIPLINE OF A RESPONDENT SHALL NOT BE RELEVANT TO THE ISSUE OF WHETHER THE CONDUCT ALLEGED HAS OCCURRED. INFORMATION REGARDING PRIOR DISCIPLINE MAY BE RELEVANT TO THE ISSUE OF THE DISCIPLINE TO BE IMPOSED BUT SUCH INFORMATION SHALL NOT BE DIVULGED TO THE BOARD UNTIL AFTER THERE HAS BEEN A FINDING OF MISCONDUCT IN THE PRESENT MATTER.

(j) EXCEPT AS PROVIDED RELATIVE TO APPEALS OR IS OTHERWISE PROVIDED IN THESE RULES, TIME IS DIRECTORY AND NOT JURISDICTIONAL. FAILURE TO OBSERVE THE PRESCRIBED TIME INTERVALS MAY RESULT IN SANCTIONS AGAINST THE VIOLATOR BUT DOES NOT JUSTIFY ABATEMENT OF ANY DISCIPLINE OR DISABILITY INVESTIGATION OR PROCEEDING.

(k) IF A COMPLAINT IS FILED AGAINST BAR COUNSEL OR BAR COUNSEL'S STAFF, OR IF BAR COUNSEL HAS A CONFLICT IN A PARTICULAR MATTER, THE MATTER SHALL PROCEED IN ACCORDANCE WITH THESE RULES EXCEPT THAT THE BOARD SHALL APPOINT A SPECIAL COUNSEL TO REVIEW AND IF NECESSARY PROSECUTE THE CASE.

Rule -VII- XI. Interim suspension.

(a) The Supreme Court may enter an order of interim suspension if:

(1) There is probable cause to believe from specific facts shown by affidavit that the respondent-attorney poses a substantial threat of irreparable harm to the public; and

(2) The alleged conduct, if true, would subject the respondent-attorney to sanctions under Rule VI or to transfer to disability inactive status as provided in Rule XIII.

(b) The ~~Attorney-General~~ BAR COUNSEL UPON APPROVAL BY THE BOARD may petition for interim suspension by filing a petition with the Supreme Court, supported by affidavit setting forth the specific facts upon which the petition is based. A copy of the petition, together with supporting affidavits, shall be served as provided in Rule VI(b)(1). A petition may be filed:

(1) After the filing of a complaint with the ~~Grievance Committee~~ BOARD under Rule V, seeking review of an attorney's professional conduct; or

(2) After the filing of a petition for the transfer of an attorney to disability inactive status under Rule XIII.

(c) The respondent-attorney may file a petition with the Supreme Court for dissolution or amendment of any order of interim suspension. Said petition may be filed at any time following the entry of the court's order of interim suspension. The petition shall be in writing, and shall be supported by affidavits setting forth the specific reasons why the petition should be dissolved or amended. A copy of the petition, together with the supporting affidavits, shall be served upon the ~~Attorney-General~~ BAR COUNSEL. After the filing of said petition, the Supreme Court may continue, amend or dissolve the order of interim suspension. The Supreme Court may, in its discretion, schedule the matter for oral argument before taking any action.

(d) Any order of interim suspension which restricts the respondent-attorney's maintenance of a trust account in connection with his practice of law, when served on any bank maintaining such trust account, shall serve as an injunction to prevent said bank from making further payment from such trust account except in accordance with restrictions stated in the order.

Rule VIII-XII. Immunity.

(a) Complaints submitted to the committee BOARD shall be absolutely privileged and no lawsuit predicated thereon may be instituted. Members of the committee BOARD, the executive secretary to the committee BAR COUNSEL, those persons investigating, and any persons prosecuting a recommendation of the grievance committee before the Supreme Court shall be immune from suit for conduct in the course of their official duties.

(b) Witnesses will be absolutely immune from civil liability for all communications to the grievance committee BOARD, and investigative and prosecutorial staff, and for testimony given in the proceeding.

(c) UPON APPLICATION BY BAR COUNSEL AND NOTICE TO THE APPROPRIATE PROSECUTING AUTHORITY, ANY DISTRICT COURT MAY GRANT IMMUNITY FROM CRIMINAL PROSECUTION TO A WITNESS IN A DISCIPLINE OR DISABILITY PROCEEDING.

Rule ~~IX~~ XIII. Refusal of complainant to proceed; settlement, compromise or restitution.

Neither unwillingness or neglect of the complainant to sign a complaint or to prosecute a charge, nor settlement, compromise, or restitution, shall, in itself, justify abatement of an investigation into the conduct of an attorney and proper disciplinary proceedings.

Rule ~~X~~ XIV. Matters involving related pending civil or criminal litigation.

All complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation may, at the discretion of the committee BOARD, be deferred until the conclusion of such litigation, provided that the respondent-attorney makes all reasonable efforts to obtain the prompt trial and disposition of such pending litigation.

The acquittal of the respondent-attorney on criminal charges or a verdict of judgment in respondent's favor in a civil litigation involving substantially similar material allegations shall not in and of itself justify abatement of a disciplinary investigation predicated upon the same material allegations.

Rule ~~XI~~ XV. Required records.

(a) All attorneys subject to these rules shall maintain complete records of the handling, maintenance and disposition

of all funds, securities, and other properties of a client at any time in their possession, from the time of receipt to the time of final distribution, and shall preserve such records for a period of five (5) years after final distribution of such funds, securities, and other properties, or any portion thereof.

(b) ALL ATTORNEYS SUBJECT TO THESE RULES SHALL BE REQUIRED TO FURNISH TO THE WYOMING STATE BAR FOR ITS OFFICIAL RECORDS AN ADDRESS WHEREIN THE ATTORNEY MAY BE SERVED WITH PROCESS UNDER THESE RULES.

Rule ~~XII~~ XVI. Attorneys convicted of serious crimes.

(a) Upon the filing with this court of a certified copy of an official record or document demonstrating that an attorney has been convicted of a serious crime as hereinafter defined, this court shall enter an order immediately suspending the attorney, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of an appeal, pending final disposition of a disciplinary proceeding to be commenced upon such conviction.

(b) The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common-law definition of such crime, involves moral turpitude, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or conspiracy or solicitation of another to commit a "serious crime".

(c) A certified copy of an official record or document demonstrating that an attorney has been convicted of any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against him based upon the conviction.

(d) Upon the receipt of a certified copy of an official record or document demonstrating that an attorney has been convicted of a serious crime, the court shall, in addition to suspending the attorney in accordance with the provisions of (a) of this rule, also refer the matter to the ~~committee~~ BOARD for formal disciplinary proceeding, in which the sole issue to be determined shall be the extent of the final discipline to be imposed, provided that a disciplinary proceeding so instituted will not be brought to hearing until all appeals from the conviction are concluded. In the course of such formal disciplinary proceeding that attorney may not challenge the propriety of the judgment of conviction.

(e) Upon receipt of a certified copy of an official

record or document demonstrating that an attorney has been convicted of a crime not constituting a serious crime, the court shall refer the matter to the ~~committee~~ BOARD for whatever action it may deem warranted, provided, however, that this court may in its discretion make no reference with respect to convictions for minor offenses.

(f) An attorney suspended under the provisions of (a) of this rule will be reinstated immediately upon the filing of a document demonstrating that the underlying conviction for a serious crime has been reversed; but the reinstatement will not terminate any proceeding then pending against the attorney, the disposition of which shall be determined by the ~~committee~~ BOARD on the basis of the available evidence.

(g) The clerk of any court of record within the state in which an attorney is convicted shall within ten (10) days of said conviction transmit a certified copy of an official record or document demonstrating such conviction to this court and the ~~committee~~ BOARD.

(h) Upon being advised that an attorney has been convicted of a crime within this state, the ~~committee~~ BOARD shall determine whether the clerk of the court where the conviction occurred has forwarded a document to this court in accordance with the provisions of (g) of this rule. If the document has not been forwarded by the clerk or if the conviction occurred in another jurisdiction, it shall be the responsibility of the ~~committee~~ BOARD to obtain a certified copy of an official record or document and transmit it to this court.

Rule ~~XIII~~ XVII. Transfer to disability inactive status.

(a) Where an attorney has been judicially declared incompetent, the Supreme Court, upon proper proof of the fact, shall enter an order placing such attorney on disability inactive status effective immediately and for an indefinite period until the further order of the court. A copy of such order shall be served upon such attorney, the attorney's guardian, if any, and if the attorney be confined in a mental hospital, on the director of the hospital, in such manner as the court may direct.

(b) The ~~committee~~ BOARD may petition the Supreme Court to determine whether an attorney is incapacitated from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants. The court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the court shall designate. If the court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order

placing the attorney on disability inactive status for an indefinite period and until the further order of the court and any pending disciplinary proceeding against the attorney shall be held in abeyance.

(c) If, during the course of a disciplinary proceeding, the respondent contends that he or she is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which make it impossible for the respondent to adequately defend himself or herself, the court thereupon shall enter an order immediately placing the respondent on disability inactive status until a determination is made of the respondent's capacity to continue to practice law in a proceeding instituted in accordance with the provision of (b) of this rule.

(d) An attorney who is placed on disability inactive status shall not engage in the practice of law until reinstated to active status in accordance with the provisions of (e) of this rule.

(e) An attorney placed on disability inactive status under the provisions of this rule shall be entitled to apply for reinstatement once a year or at such shorter intervals as the court may direct in the order placing the attorney on disability inactive status or any modification thereof. The attorney must present the application in the initial instance to the ~~committee~~ BOARD. Such application must show by clear and convincing evidence the attorney's disability has been removed and the attorney is fit to resume the practice of law. Upon such application, the ~~committee~~ BOARD may take or direct such action as it deems necessary or proper to a determination of whether the attorney's disability has been removed, including a direction for an examination of the attorney by such qualified medical experts as the ~~committee~~ BOARD shall designate. In its discretion, the ~~committee~~ BOARD may direct that the expense of such an examination shall be paid by the attorney. Upon conclusion of its consideration of the application for reinstatement, the ~~committee~~ BOARD shall make its recommendation to the court on the application. The court may take or direct any further action it deems necessary in consideration of the application.

Where an attorney has been placed on disability inactive status in accordance with the provisions of (a) of this rule, and thereafter, in proceedings duly taken, has been judicially declared to be competent, the court may dispense with further evidence that the disability has been removed and may direct the attorney's reinstatement upon such terms as are deemed proper and advisable.

(f) In a proceeding seeking an order of placement on disability inactive status under this rule, the burden of

proof shall rest with the ~~committee~~ BOARD. In a proceeding seeking an order for reinstatement to active practice under this rule, the burden of proof shall rest with the disabled inactive attorney.

(g) The filing of an application for reinstatement by an attorney placed on disability inactive status shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of the attorney during the period of disability. The attorney shall be required to disclose the name of every psychiatrist, psychologist, physician, and hospital by whom or in which the attorney has been examined or treated since the suspension; and the attorney shall furnish to the court written consent to each to divulge such information and records as requested by court-appointed medical experts.

Rule XIV XVIII. Consent to imposition of formal discipline.

(a) The ~~grievance--committee~~ BOARD and a respondent-attorney who is subject to formal disciplinary proceedings may stipulate and consent to imposition of formal discipline by the Supreme Court at any stage of formal disciplinary proceedings by submitting to the ~~grievance committee~~ BOARD an affidavit of the respondent-attorney stating the following:

(1) The respondent-attorney stipulates and consents to the imposition of formal discipline by the Supreme Court;

(2) Specifically what formal discipline the respondent-attorney stipulates and consents to may be imposed by the Supreme Court, which may include public censure, suspension up to five years, or disbarment;

(3) The affidavit and the stipulation and consent are freely and voluntarily entered into; the respondent-attorney has not been subjected to any coercion or duress (or in the alternative any coercion or duress that may have been invoked and the desire of the respondent-attorney to so stipulate and consent despite the coercion or duress); the respondent-attorney is fully aware of the implications of submitting the stipulation and consent, including the fact that, if the proposed discipline is disbarment, the respondent-attorney will occupy the same position as disbarred attorneys for the purpose of reinstatement;

(4) There is pending a formal investigation into the allegations of a written complaint or a complaint for formal discipline filed by ~~the attorney-general~~ BAR COUNSEL alleging that the respondent-attorney is guilty of misconduct and the respondent-attorney

specifically is aware of the allegations in the written complaint which is pending formal investigation or in the formal complaint filed by ~~the Attorney-General~~ BAR COUNSEL;

(5) The respondent-attorney acknowledges that the material facts upon which the written complaint or the formal complaint is predicated are true; and

(6) The respondent-attorney submits the stipulation and consent because he knows there is no possibility that he could defend himself against charges predicated upon the misconduct under investigation or the same charges in a formal complaint.

(b) Upon receipt of the required affidavit the ~~grievance-committee~~ BOARD shall file it with the Supreme Court together with the ~~grievance-committee's~~ BOARD'S report stating the ~~grievance-committee's~~ BOARD'S agreement with the discipline to which the respondent-attorney has consented.

(c) If the discipline to which the respondent-attorney has consented is disbarment, the Supreme Court shall enter an order disbarring the respondent-attorney on consent.

(d) If the discipline to which the respondent-attorney has consented is other than disbarment, the Supreme Court may enter an order imposing the formal discipline to which the respondent-attorney has consented, or the Supreme Court may reject the proposed formal discipline and remand the matter to the ~~grievance-committee~~ BOARD for completion of formal disciplinary proceedings in accordance with Rule VI.

(e) The order of discipline entered on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding, except upon order of the Supreme Court.

Rule XV XIX. Reciprocal discipline.

(a) Upon receipt of a certificate that an attorney admitted to practice in this state has been disciplined in another jurisdiction, the court shall enter an order imposing the identical discipline or, in its discretion, suspending the attorney pending the imposition of final discipline.

(b) In the event the discipline imposed in the other jurisdiction has been stayed there, the entry of an order pursuant to the provisions of (a) of this rule shall be deferred until such stay expires.

(c) The ~~committee~~ BOARD or the respondent-attorney may move the court within thirty (30) days after the entry of an order imposing reciprocal discipline pursuant to the provision of (a) of this rule for an order modifying the

reciprocal discipline upon the ground that upon the face of the record upon which the discipline is predicated it clearly appears

(1) That the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process, or

(2) There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not consistently with its duty accept as final the conclusion on that subject, or

(3) That the imposition of the same discipline by this court would result in grave injustice, or

(4) That the misconduct established has been held by this court to warrant substantially different discipline.

(d) In the event the court suspends the attorney disciplined in another jurisdiction pending imposition of final discipline pursuant to the provisions of (a) of this rule, the court shall issue an order requiring the attorney to show cause why the identical discipline should not be imposed in this jurisdiction. The attorney's response to the order to show cause shall be limited to the above enumerated criteria as reflected in the record of the proceeding resulting in the imposition of discipline in the foreign jurisdiction.

(e) In all respects except as above indicated a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the state.

Rule XVI- XX. Duties of disbarred or suspended attorneys.

(a) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, all clients in pending matters, other than litigated or administrative matters or proceedings pending in any court or agency, of the attorney's disbarment or suspension and the attorney's consequent inability to act as an attorney after the effective date of the disbarment or suspension and shall advise said clients to seek legal advice elsewhere.

(b) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, each of his clients and any co-counsel who are involved in litigated matters or administrative proceedings,

and the attorney or attorneys for each adverse party in such matter or proceedings, or in the absence of such counsel, the adverse party or parties, of his disbarment or suspension and consequent inability to act as an attorney after the effective date of his disbarment or suspension. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in his place.

In the event the client does not obtain substitute counsel before the effective date of the disbarment or suspension, it shall be the responsibility of the disbarred or suspended attorney to move pro se in the court or agency in which the proceeding is pending for leave to withdraw.

The notice to be given to the attorney or attorneys for an adverse party or, in the absence of such counsel, the adverse party or parties, shall state the place of residence of the client of the disbarred or suspended attorney.

(c) The disbarred or suspended attorney shall deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or any other property.

(d) The disbarred or suspended attorney, after entry of the disbarment or suspension order, shall not accept any new retainer or engage as an attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order to its effective date he may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(e) The disbarred or suspended attorney shall refund any part of any fees paid in advance that have not been earned.

(f) Within ten (10) days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall file with the court an affidavit showing: (1) that he has fully complied with the provisions of the order and with this rule, and (2) that he has served a copy of such affidavit upon the committee. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to the attorney.

(g) A disbarred or suspended attorney shall keep and maintain records of the various steps taken under this rule so that on any subsequent proceeding instituted by or against the disbarred or suspended attorney proof of compliance with these rules and with the disbarment or suspension order will be available.

Rule XVII-XXI. Appointment of counsel to protect client's interests when attorney is suspended for disability or disappears or dies while under investigation.

(a) Whenever an attorney is suspended for disability or disappears or dies while under investigation and no partner, executor or other responsible party capable of conducting the attorney's affairs is known to exist, the appropriate local court, upon proper proof of the fact, may appoint an attorney or attorneys to inventory the files of the suspended, disappearing or deceased attorney and to take such action as seems indicated and is approved by the court to protect the interests of clients of the suspended, disappearing or deceased attorney as well as the interests of that attorney.

(b) Any attorney so appointed shall not be permitted to disclose any information contained in any files so inventoried without the consent of the client to whom such file relates except as necessary to carry out the order of the court which appointed the attorney to make such inventory.

Rule XVII-XXII. Reinstatement.

(a) A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment.

(b) An attorney who has been suspended for six (6) months or less shall be reinstated automatically upon expiration of the period of suspension and the filing of an affidavit with the court, a copy of which shall be served upon the ~~committee~~ BOARD that the attorney has complied with all applicable discipline or disability orders and rules.

(c) An attorney who has been suspended for a specific period of greater than six (6) months may not move for reinstatement until the expiration of AT LEAST ONE-HALF OF the period specified in the order of suspension.

(d) A person who has been suspended indefinitely due to disability under the provisions of Rule ~~XII~~ XVIII may move for reinstatement upon clear and convincing evidence that the disability has been terminated and that the person is once again fit to resume the practice of law, provided, however, that in the event a motion for reinstatement is denied, no further motion for reinstatement may be made until the expiration of at least one (1) year following the denial unless another period for renewing the motion for reinstatement is specified in the order of suspension or in the order denying a prior motion for reinstatement.

(e) Motions for reinstatement by disbarred attorneys or attorneys suspended for misconduct rather than disability shall be served upon the ~~committee~~ BOARD at least ~~two-(2)~~ SIX (6) months prior to the return date thereof. Upon receipt of the motion for reinstatement, the ~~committee~~ BOARD shall cause the matter to be investigated. The ~~committee~~ BOARD shall promptly schedule a hearing at which the respondent-attorney shall have the burden of demonstrating by clear and convincing evidence that the respondent HAS BEEN REHABILITATED AND HAS COMPLETED WITH ALL REQUIREMENTS IMPOSED BY THE COURT, WHICH MAY INCLUDE SUCCESSFUL COMPLETION OF REQUIREMENTS FOR PASSING THE BAR EXAMINATION, OR PORTIONS THEREOF, has the moral qualifications, competency and learning in law required for admission to practice law in this state and that the respondent's resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive to the public interest. At the conclusion of the hearing, the ~~committee~~ BOARD shall promptly file a report containing its findings and recommendations and transmit the same, together with the record, to this court. This court shall enter a final order, deciding the motion within sixty (60) days.

(f) The court in its discretion may direct that the necessary expenses incurred in the investigation and processing of a motion for reinstatement be paid by the respondent-attorney.

Rule XIX-XXIII. Expenses and costs.

(a) The expenses of the members of the ~~committee~~ BOARD and investigators, and other expenses incurred in the implementation or administration of these rules, shall be paid by the ~~committee~~ BOARD out of the funds allocated to it by the Wyoming State Bar.

(b) IN ANY CASE WHERE THE BOARD IMPOSES PRIVATE DISCIPLINE OR PLACES AN ATTORNEY ON PROBATION, THE BOARD MAY ASSESS THE ATTORNEY THE COSTS INCURRED IN CONNECTION WITH THE INVESTIGATION AND DISCIPLINARY PROCEEDING.

(c) In all cases where discipline is recommended by the ~~grievance-committee~~ BOARD, it shall certify to the Supreme Court the costs incurred in connection with the investigation and disciplinary proceeding. The ~~committee~~ BOARD may recommend to the court the assessment of those costs and if the Supreme Court imposes discipline, the court may assess the respondent all or any part of the costs so certified.

(d) In any case where costs are assessed, the assessed costs shall be paid to the Wyoming State Bar for the account of the Wyoming State Bar ~~Grievance-Committee~~ STATE BOARD OF PROFESSIONAL RESPONSIBILITY.

Rule-XX-XXIV. Confidentiality.

(a) All proceedings involving allegations of misconduct by an attorney shall be kept confidential until and unless a recommendation for the imposition of discipline is filed with the court by the ~~committee~~ BOARD or the respondent-attorney requests that the matter be public or the investigation is predicated upon the conviction of the respondent-attorney for a crime.

(b) Information regarding matters that are not public should be available only to agencies authorized by the court and only if the disclosure is made in furtherance of an ongoing investigation into misconduct of the respondent.

Rule-~~XXV~~ XXV. American Bar Association.

Upon the establishment by the American Bar Association of a permanent organization to coordinate and strengthen disciplinary enforcement, a copy of any order entered by the court suspending, disbarring or reinstating an attorney will be sent to that organization by the clerk of this court.

Rule ~~XXVI~~ XXVI. Effective date.

These rules shall become effective on ~~November 1, 1986,~~ JANUARY 8, 1990, and any disciplinary action pending on that date shall be governed by these rules.