

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

1. IN RE: TENNESSEE RULES OF PROFESSIONAL CONDUCT

No. M2003-00354-SC-OT-RL - June 23, 2003

ORDER

On January 31, 2003, the Tennessee Bar Association (“TBA”) filed a “Petition for Reconsideration or Clarification” concerning certain provisions of the Rules of Professional Conduct. In Section 4 of Part C of the Petition, the TBA proposed adding a new Comment [6] to RPC 4.1.

On April 29, 2003, the Court entered an order directing the TBA to file a supplemental brief concerning the proposed Comment [6]. The TBA filed its supplemental brief on May 29, 2003. The supplemental brief provided additional argument on the need for the proposed Comment and set out a revised proposal for the Court’s consideration.

After due consideration, the Court finds that the revised proposed Comment [6] should be adopted. Accordingly, the following Comment [6] to RPC 4.1 is adopted, effective on the date of entry of this order:

[6] This Rule does not apply if the lawyer learns of the client’s crime or fraud after the lawyer’s representation in the matter is concluded. In such circumstances, the lawyer must comply with Rules 1.6, 1.8(b), and 1.9(c) and may not make any disclosures concerning the client’s crime or fraud unless permitted or required to do so by those Rules. *See, e.g.*, RPC 1.6(b)(2) (permitting disclosures to secure legal advice about compliance with these Rules); RPC 1.6(b)(3) (permitting disclosures to establish a defense to an allegation of misconduct); RPC 1.6(c)(1) (requiring disclosure “to prevent reasonably certain death or substantial bodily harm”).

The costs associated with this matter are hereby waived by the Court.

IT IS SO ORDERED.

PER CURIAM