

Appendix A

The Named 5 - Violations

Introduction to Appendix A

We have excerpted RPC's from the Oregon Rules of Professional Conduct (RPC) which we believe any or all of the originally named attorneys *may* have violated. Convenience of reference to the specificity of our concerns is the only reason for this format. We reject the notion that this represents a "fishing expedition." At the same time, we should remember that the citations represent the reasonable concerns of non-attorneys. We leave it to the OSB CAO to regard the concerns with greater legal acumen. Though it may not be useful for the OSB CAO's present purposes, we have added AAG Stephanie Thompson to the attorneys we name here in association with potential violations. We have added notes in certain places.

CLIENT-LAWYER RELATIONSHIP

RULE 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Berry, Foote, Alexander, Joyce, Rosenblum, and Thompson

Our comment here is general. There is so much irregularity in broad matters related to each of the named 5 attorneys (plus Thompson), that incompetence must be considered. Though the matter of question here is whether given attorneys have provided competent representation to their own clients, the matter crosses over when errors and poor choices are of great enough magnitude as to affect opponents and the general administration of justice generally, across cases, and foreseeably, in the future. We are aware that when under investigation, the general competence of other licensees to practice their professions is taken into consideration and addressed accordingly.

It is not in the pejorative sense that we suggest an investigation in to the profession knowledge base of these attorneys, the mental health of these attorneys, the presence of possible personality disorders, possible cognitive impairments or substance use, and other factors which may provide a "competence to practice law" concern and explanation for their behaviors.

RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (b) and (c), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. [...]

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Berry, Foote, Alexander, and by articulated association, Joyce and Rosenblum. Thompson

In as much as we do not know what is meant by “the board” in any given reference to “it,” we cannot determine whether one party within the board/DOJ advised another party, acted unilaterally, or whether the party being advised would be considered a member of “the board” in an identified interaction. For instance, would Ms. Alexander be considered part of “the board” if Mr. Foote advised her to carry false statement’s into the OCA hearing while she was representing the board. Or, inasmuch as Ms. Berry may be contained in a reference to “the board,” if Foote counsels her to engage in in an illegal activity, is he counseling his “client” in violation of RPC 1.2(c).

This needs investigation.

RULE 1.3 DILIGENCE

A lawyer shall not neglect a legal matter entrusted to the lawyer.

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

Berry neglected to tell the truth to Dr. Bice’s former clients, neglected to follow RPCs, neglected to inform a witness that she did not have a properly signed consent form, neglected to refrain from tampering with witnesses, neglected to refrain from using her governmental position to get witnesses to falsely testify, neglected to abide the oaths of her office and the oaths of the Bar which compel her to uphold the Constitutions of Oregon and of the United States of America.

Foote failed to call Berry to task on her misconduct and failed to report her to the OSB CAO. Foote failed to refrain from misleading the court by coloring uncolorable allegations against Dr. Bice following ALJ Rick Gutman's decision, Foote may have refrained from communicating the full truth about his modifications of the ALJ's findings to Ms. Alexander, putting her in the position of lying to the OCA. There is reason to believe Foote was the one who provided much of the false text to Ms. Thompson and that in this, he refrained from making sure she had accurate information to provide the OSB CAO in he Answer to OSB CAO on January 17, 2017. Inasmuch as the composition of "the board" is obfuscated in most of all Foote's writings, Foote *may* have neglected to be in proper communication with his client in the Bice matter. Foote *may* have failed to provided truthful and objective and *whole* information to the Voting members of the Oregon Board of Psychologist Examiners so that they might vote fairly on the Bice matter. We do know, as a matter of fact, that the Voting members of the OBPE were not present during any portion of Dr. Bice's contested hearing.

This needs to be investigated further due to obfuscation.

Foote neglected to respect the oath he took allowing him to practice law, and as well, neglected to respect the oath he took that would allow him to practice law as an employee of the Oregon Department of Justice.

Foote may have failed to maintain a level of competence to practice law. When one practices law for twenty years in an environment that is granted such immunities as to render them "above the law," it is fair to reason that knowledge of actual law atrophies and that information provided in requisite CE's are registered by the lawyer as irrelevant.

Alexander neglected to tell the truth before the OCA. OCA, if she was simply a victim of Foote, neglected to fact check in order to make sure she did not lie in Appellate Court. If Alexander was aware of Foote or Berry's misconduct, she neglected to report the violations to OSB CAO for investigation.

Ms. Joyce neglected to supervise Ms. Alexander in such a way that prejudice to Dr. Bice and to the administration of justice could have been averted.

Ms. Rosenblum, as head of the DOJ neglected to provide the oversight to make sure the attorneys she had statutory responsibility for did not violate RPC's or the U.S. and Oregon Constitutions.

All aspects of of the Bice matter, start to finish need to be investigated so we can know what should have happened to make things go right, but didn't for lack of DILIGENCE as required under RPC 1.3.

RPC 1.0 states that "Matter" includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim,

controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and any other matter covered by the conflict of interest rules of a government agency.

RULE 1.4 COMMUNICATION

- (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

Again, inasmuch as we cannot tell in the written documents, who “the board” is, we cannot discern with precision who “the client” is. To say the board is the client does not help us in the present investigation. **See Appendix B: Definitions.** we cannot discern the nature of communication between attorney and client. We cannot discern whether any of the named 5 attorneys consulted appropriately and in accordance with their “clients.” We do not know whether Foote, for instance, actually carried out the wishes of his clients or whether he made any given decision unilaterally. This is important in determining who is responsible for improprieties. **This needs investigation.**

RULE 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a current conflict of interest. A current conflict of interest exists if:
 - (1) the representation of one client will be directly adverse to another client;
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer; or

Foote, Alexander, Joyce, Rosenblum, Thompson

As one of the attorneys represented by AAG attorney we are actually concerned about the relationship between Ms. Rosenbaum and Ms. Thompson. Not only is Ms. Rosenbaum Ms. Thompson’s client, she is Ms. Thompson’s boss with the power to hire and fire her not only regarding representation in the present manner, but in the matter of Ms. Thompson’s ongoing employment with the DOJ. If a conflict of interest arises beyond this Ms. Thompson will be faced with the choice of favoring Ms. Rosenbaum or favoring the other named attorney’s who

have no hiring and firing power. This could result in desperate measures taken by the others represented by Ms. Thompson including collusion designed to avoid the appearance of conflicts.

Ms. Thompson should have not accepted this case. That is, she should not have agreed to represent the named 5 jointly. The question is whether the conflict manifested itself from the outset. That is, whether Ms. Thompson could have declined the arrangement without having her job put on the line. At the same time, it should not be assumed that Ms. Thompson is a victim. Ms. Thompson may have volunteered to represent this group jointly in which case she may be culpable for the violation of RPC 1.7. She may also presently be under pressure to to say she volunteered for this assignment in this form.

The foreseeability of this sort of problem is why RPC 1.7 was written.

Too, each and every Assistant Attorney General, in the state of Oregon, by statute, and with the full authority of the Attorney General has alternatives to this problem. See ORS 180.140 and ORS 180. 235.

(b) Notwithstanding the existence of a current conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

Notwithstanding RPC 1.7(b)(4), we *reasonably believe* that each of these attorneys know or should know, knew or should have known, that it is not “reasonable to believe” conflicts of interest will not arise as a single attorney (AAG Thompson) attempts to adequately and fairly act in the interest of all five of the named attorneys. This will result in a fiasco which will unnecessarily and avoidably result in the trying of the time, money staff, and other resources of the OSB. In as much, it is a deliberate attempt to delay, prolong, and otherwise frustrate a valid investigation into the conduct of the named attorneys.

(2) the representation is not prohibited by law;

We believe that the joint representation is *provisionally* not prohibited by law.

(3) the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and

Yes, this is more or less the problem and the essence of “conflict of interest” in the context of RPC 1.7. See note under RPC 1.7(b)(1)

(4) each affected client gives informed consent, confirmed in writing.

RULE 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

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

(1) the client gives informed consent;

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

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

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

(h) A lawyer shall not:

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

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

(3) enter into any agreement with a client regarding arbitration of malpractice claims without informed consent, in a writing signed by the client; or

(4) enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or to pursue any complaint before the Oregon State Bar.

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

See definition of "firm" in section 1.0

RULE 1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to Rules 1.7 and 1.9; and

(2) shall not:

(i) use the lawyer's public position to obtain, or attempt to obtain, special advantage in legislative matters for the lawyer or for a client.

(ii) use the lawyer's public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client.

Berry, Foote, Rosenblum

By the very nature of Administrative Law, attorneys who are acting as employees of the DOJ, are at risk of encountering a conflict between the special privileges of their public positions and adherence to the very oaths which allow them to practice law and to be employed by the state. Although rules and statutes may "permit" them to use the special advantaged of their public positions, RPC's and the U.S. and Oregon Constitutions do not.

In the Bice matter, the very act of overturning the the ALJ's decision, or by supervisory authority was a violation of RPC 1.11(d)(2)(ii), the attorney's oath of office, oath of law practice, the 5th and 14th Amendments to the U.S. Constitution, and Article 1, section 20 of the Oregon Constitution.

All legal matters in the state of Oregon by statute are the responsibility of the Department of Justice, and thus responsibility for these violations cannot be passed on to non-attorney persons (such are ordinary board members) nor the legislature for the actual acing upon laws which offend oaths, constitutions, and RPC.

ADVOCATE

RULE 3.1 MERITORIOUS CLAIMS AND CONTENTIONS

In representing a client or the lawyer's own interests, a lawyer shall not knowingly bring or defend a proceeding, assert a position therein, delay a trial or take other action on behalf of a client, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law, [...]

Berry, Foote, Alexander, Joyce, Rosenbaum, Thompson

The matter of frivolity needs to be examined here in light of the lengths to which all of the named 5 went to win something (anything) against Bice Their desperate efforts included reversing the ALJ's decision, "coloring" the paper thin concerns (and evidence and testimony) at the end of the Administrative Hearing phase, substantially modifying established reports of historical fact and then lying about it before the OCA. They did this to press an issue about extremely small differences in the degree to which Bice touched someone seven years prior. Supported by the decisions of first, the ALJ and then the OCA, frivolity should be considered.

Ms. Thompson's January 17, 2017 Answer to the OSB CAO should be considered a violation of RPC 3.1.

RULE 3.3 CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

Berry, Foote, Alexander, Thompson, and by association or supervisory responsibility, Joyce, and Rosenblum

Berry lied to Bice's former clients when she stated she'd been contacted by other women (paraphrasing) "about similar matters." The fact is that Berry had been contacted by zero other women about similar matters, Berry did the contacting and in each of those cases the women felt harassed by Berry and told her to go away. Berry then lied about these matters in Bice's Administrative Hearing process. By no stretch of the imagination is Berry covered in these actions by the provisions of RPC 8.4(b)'s "Covert Action" clauses. In Foote's substantial modification of the ALJ's finding Berry both came clean AND according to OCA perjured herself further. RPC 33(a)(1) is a two part rule. It forbids lying **and** it forbids a perpetuation of a lie to a tribunal. Nowhere does it state that the correction of a false statement, necessarily exonerate the person who made the false statement for the lie they told in the first place. Berry violated, on numerous occasions, RPC 3.3(a)(1).

Foote was complicit in these lies inasmuch as 1) he should have been in the loop during their original commission, 2) he wrote and signed the briefs which contained the lies of Berry, 3) he knowingly and substantially altered the ALJ material finding of fact, 4) at the time of consultation with Carolyn Alexander lied about or "colored" the truth about his modifications. Between Foote and Alexander, someone was accountable for the communication or discernment of

truth and this maybe where we see a conflict of interest. Only further investigation will determine whether Foote lied to, or mislead, Ms. Alexander such that (implausibly) Ms. Alexander stood firm in communicating false statements to the OCA in good faith, reliant on Foote's information; Alexander, Foote and Berry were complicit in a plan to lie all the way through the Appellate Hearing; or Mr. Foote acted (implausibly) in good faith and Ms. Alexander lied all the way through Appellate Court of her own accord. One thing has been communicated clearly, That is that neither ALJ Barber nor the OCA would call all of this a simple matter of a "colorable position being forwarded.

In this mess, were were the supervisors?

- (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if permitted, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false;

Berry, Foote, Alexander, Joyce, Rosenbaim

Berry was a witness at Bice's Administrative Hearing. She lied. Foote knew that Berry was lying. In Post-Administrative Hearing, Foote and Berry both confessed to Berry's lying and at the same time conspired to some more lying or "coloring," and then they Brought Alexander into all this. Alexander boldly and repeatedly told the lies, and then committed compound lied by "lying about the lying." There is every reason to believe that via functional chains of command, and by their signatures on the brief Alexander wrote based on the lies of Foote and Berry, that Joyce and Alexander knew what was going on and condoned it or were inexcusably ignorant on the matter to the point that intervention in the protracted abuse of Bice's did not occur on their watch.

- (4) conceal or fail to disclose to a tribunal that which the lawyer is required by law to reveal; or

- (5) engage in other illegal conduct or conduct contrary to these Rules.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if permitted, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, but in no event require disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

RULE 3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(a) knowingly and unlawfully obstruct another party's access to evidence or **unlawfully alter**, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) **falsify evidence; counsel or assist a witness to testify falsely**; offer an inducement to a witness that is prohibited by law; or pay, offer to pay, or acquiesce in payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; except that a lawyer may advance, guarantee or acquiesce in the payment of:

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

(1) expenses reasonably incurred by a witness in attending or testifying;

(2) reasonable compensation to a witness for the witness's loss of time in attending or testifying; or

(3) a reasonable fee for the professional services of an expert witness.

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

Berry, Foote, Alexander, and by way of supervisory irresponsibility, Joyce, Roseblum

(d) in pretrial procedure, knowingly make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused;

RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

- (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

Berry, Foote, Alexander and by way of supervisory irresponsibility, Joyce, Rosenblum

- (b) communicate ex parte on the merits of a cause with such a person during the proceeding unless authorized to do so by law or court order;

RULE 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or

Berry, Foote, Alexander and by way of supervisory irresponsibility, Joyce, Rosenblum

- (b) fail to disclose a material fact when disclosure is necessary to avoid assisting an illegal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Berry, Foote, Alexander and by way of supervisory irresponsibility, Joyce, Rosenblum

RULE 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

A lawyer shall be responsible for another lawyer's violation of these Rules of Professional Conduct if:

- (a) the lawyer orders or, with knowledge of the specific conduct, ***ratifies*** [emphases added] the conduct involved; or

Foote, Alexander, Joyce, Rosenblum, Thompson

Here we draw again upon the definitions provided in RPC 1.0: Specifically:

Rule 1(h) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question [emphases added], except that for purposes of determining a lawyer's knowledge of the existence of a

conflict of interest, ***all facts which the lawyer knew, or by the exercise of reasonable care should have known, will be attributed to the lawyer. A person's knowledge may be inferred from circumstances*** [emphases added].

Note: In reading Rule 1(h), understanding “all facts which the lawyer knew, or by the exercise of reasonable care should have known, will be attributed to the lawyer,” to be limited to matters in which the lawyer’s knowledge of a conflict of interest was being determined would be absurd. We preemptively reject said understanding of Rule 1(h) as implausible. We offer that were Rule 1(h) to have been so narrowly conditioned, RPC Rule 1.0 would have include an additional definition of "Knowingly," "known," or "knows" so as to serve a broader set of issues given the broad importance of these terms.

Rule 1(k) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

We draw attention to the word “**ratifies**” in RPC 5.1(a). Online, *Cambridge Dictionary* defines “ratify” as:

(esp. of governments or organizations) to agree in writing to a set of rules, or to officially approve a decision or plan: <http://dictionary.cambridge.org/us/dictionary/english/ratify>

The Oxford Living Dictionary defines “ratify” as:

Sign or give formal consent to (a treaty, contract, or agreement), making it officially valid. <https://en.oxforddictionaries.com/definition/ratify>

Black’s Law Dictionary only defines “ratification” but Black’s the congruence is clear and referencing Black’s only strengthens the validity of the other definitions.

Each of the named attorneys signed their names to things, ratifying that which they or someone else had written, done, had done, had written, or was about to write or do.

Nowhere is this to be emphasized more than when we consider the signatures or seals of Joyce and Rosenblum. There was wrong doing in the Bice matter and had Joyce and Rosenblum been true to their responsibilities, they may have chosen to intervene in any number of ways. They may have reprimanded Foote or Alexander and/or their respective more immediate supervisors (who didn’t sign Appellate Briefs as “being with” “on the brief”). They could have reassigned the case to other AAG’s or even relieved Foote and/or Alexander of their employment with the DOJ. But neither Ms. Rosenblum nor Ms. Joyce did this. Instead, they looked the other

way and allowed Berry, Foote, and Alexander show prejudice to Dr. Bice and to the administration of justice, no holds barred.

(b) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RULE 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE

With respect to a nonlawyer employed or retained, supervised or directed by a lawyer:

(a) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Foote, depending on how Berry is to be regarded.

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a **substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer** [emphasis added] in other respects shall [emphases added] inform the Oregon State Bar Client Assistance Office.

Berry, Foote, Alexander, Joyce, Alexander, Thompson

We find it reasonable to believe that in a coordinated effort to bring charges against a licensee such as Dr. Bice, lawyers will work as a team. In working as a team most effectively, we find it reasonable to believe that high levels of communication are required both in breadth and in detail. When proceedings in a case involve misconduct, most persons involved know about the misconduct.

In the matter of Bice, Bice knew of the misconduct of the 5 named attorneys. Dr. Bice's attorney knew of misconduct. ALJ Gutman knew about it. The OCA knew about it. Every one of the signers of the request for investigation could see it

immediately upon reading the OCA opinion. Colleagues of the signers who did not sign (for fear of similar abuse) recognized misconduct on the part of the named 5 immediately upon reading the Bice OCA opinion. It is our belief that OSB CAO recognized the misconduct immediately upon reading the OCA report.

We find it absolutely implausible that each of the named 5 themselves did not know that violations were occurring among themselves.

If they did not know, they should have known (Joyce, Rosenblum).

Even now, these attorneys know that they are attempting to mislead the OSB CAO, that they are providing false information to the OSB CAO, that they are delaying the investigatory process (prejudice to the administration of justice) by making group arrangements for representation which they reasonably should know they cannot sustain without conflict of interest.

Too, as they tend to the troubles they've created for themselves in the Bice matter, Bice sits listening to the sounds of the law's delay.

Not only have the named 5 obligated themselves to report one another (a responsibility their common counsel cannot spare them), they are creating, at this very moment, a backlog of things they will need to report each other for.

Yet there has been no reporting to the OSB as required by RPC 8.3.

We, the undersigned reasonably believe these lawyers have committed violations of the Rules of Professional Conduct that raises substantial questions as to their honesty, trustworthiness and fitness to be lawyers both individually and as a group.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

RULE 8.4 MISCONDUCT

(a) It is professional misconduct for a lawyer to:

(1) violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

(2) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

(3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer's fitness to practice law;

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

(4) engage in conduct that is prejudicial to the administration of justice; or

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

(5) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate these Rules or other law, or

(6) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

(7) in the course of representing a client, knowingly intimidate or harass a person because of that person's race, color, national origin, religion, age, sex, gender identity, gender expression, sexual orientation, marital status, or disability.

(b) Notwithstanding paragraphs (a)(1), (3) and (4) and Rule 3.3(a)(1), it shall not be professional misconduct for a lawyer to advise clients or others about or to supervise lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights, provided the lawyer's conduct is otherwise in compliance with these Rules of Professional Conduct. "Covert activity," as used in this rule, means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. "Covert activity" may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place or will take place in the foreseeable future.

(c) Notwithstanding paragraph (a)(7), a lawyer shall not be prohibited from engaging in legitimate advocacy with respect to the bases set forth therein.

For Commentary on RPC 8.4(b), see Appendix E.

Violation of Oaths (to the OSB and to the State of Oregon) to uphold the Constitutions of the U.S. and Oregon

Berry, Foote, Alexander, Joyce, Rosenblum, Thompson

For Commentary on the Violation of Oaths and of Constitutions, see Appendix D