Letter from the Committee Chair
Dear Committee Members,

I look forward to seeing many of you at the Section Fall Meeting next week (November 16-17) in Washington DC. Please come to our program on "Ethics in Lobbying and Government Affairs Practice," which we are presenting jointly with the Committee on Government Affairs Practice on Friday afternoon, November 16, from 2-3:30 p.m.

Please also attend our Committee meeting on Friday morning, November 16, 9-11 a.m. We will discuss 2013 Spring Meeting programs and possible 2013 Annual Meeting programs.

We should by the time of the Committee meeting have the final proposals of the Ethics 20/20 Commission, as they will go to the House of Delegates. We will discuss our recommendations to the Section Officers and Delegates regarding those proposals.

We will also discuss an important and substantial project that we intend to launch next year. We are calling it the "Model Rules Issues Papers Project." In addition, we will have reports from our Subcommittee Chairs as to their plans for 2013.

If you have colleagues who you think might be, or should be, interested in any aspect of the work of the Professional Responsibility Committee, please encourage them to join. If they are not already members of the Section, or of the ABA, we will be happy to acquaint them with the low costs and substantial benefits of membership.

Charlie McCallum,
Chair, ABA/BLS Committee on Professional Responsibility

Fall Meeting Committee Events
- Full Committee Meeting - Friday, November 16, from 9:00 a.m. to 11:00 a.m. in the Boardroom on the Ballroom Level of the Ritz-Carlton.
- Program - Friday, November 16, from 2:00 p.m. to 3:30 p.m. in the Salon II, Ballroom Level
- Jointly with Government Affairs Practice Committee: Ethics in Lobbying and Government Affairs Practice
- Panel: Michael Frisch, Adjunct Professor and Ethics Counsel at Georgetown Law; Tom Mason, a partner at the Washington DC law firm of Zuckerman Spaeder LLP; Niels Holch, a partner at the Washington DC law firm of Holch & Erickson LLP; and Al Turnbull, a partner in the DC office of global law firm Hogan Lovells. The Moderator will be Amy Kellogg, a partner in the Albany, New York, office of Harter Secrest & Emery LLP.

**Featured Content:**

- **Ladder Safety: Disclosures of Corporate Client Confidences**
  A recent article by Linda Galler, Professor of Law at Maurice A. Deane School of Law at Hofstra University, examines the reality of lawyers rooting out corporate malfeasance. The article addresses the absence of incentive for lawyers to exercise their discretion under Model Rule 1.13 and under Sarbanes-Oxley to “report out” violations of law by corporate client employees. The article notes that reporting out may have adverse consequences on a lawyer's professional career while turning a blind-eye has no adverse consequences. You can find the article [here](http://www.legalethicsforum.com/).

- **What Conflicts Can Be Waived? A Unified Understanding of Competence and Consent**
  Are client choice and client protection doomed to be at odds? This article by Kevin H. Michaels of Gonzaga University School of Law attempts to answer that question by examining Model Rule 1.7(b). Michaels proposes a new test by which courts and practitioners can honor both the consent and competence elements that too often seem at odds. This proposed test calls for a rethinking of the traditional approach to conflict waivers both in litigation and transactional matters. The article also discusses issues posed when attorneys are asked by several clients to represent them jointly. You can find the article [here](http://www.legalethicsforum.com/).

- **Regulating Conflicts of Interest in Global Law Firms: Peace in Our Time?**
  Janine Griffiths-Baker, of St. Mary's University College, London, and Nancy J. Moore, of Boston University Law School, concentrate on the regulation of conflicts of interest in the global economy. They focus on the area of cross-border practice, comparing the United Kingdom and the United States as to how each legal system defines and regulates conflict, and discusses current efforts to modify conflicts regulation in each system. You can find the article [here](http://www.legalethicsforum.com/).

**In the News:**

- **Unauthorized Practice of Law - Federal Practice - Disclosure Obligations When Lawyers Practice in States Where They are Not Admitted**
  What constitutes permissible practice in locations where an attorney is not admitted, and what constitutes the unauthorized practice of law? This case came before the Maryland Bar Counsel where a New York licensed attorney was found to be practicing in Maryland outside the limitations of his immigration practice. Hinshaw & Culbertson LLP prepared a detailed overview of the litigation, available [here](http://www.legalethicsforum.com/). You can read the full opinion, including the dissent, [here](http://www.legalethicsforum.com/).

- **Former Client - Meaning and Scope of Duty of Loyalty**
  The Supreme Court of California signaled a broader duty of loyalty to former clients when they concluded that it was a breach of fiduciary duty for an attorney, after the termination of the attorney-client relationship, to take action to oppose personally a project he had previously promoted on behalf of the client. The court found that even though there was no evidence that the attorney revealed any privileged information, it was inevitable that he came to the decision to oppose the project while representing the client and as a result of privileged information. Hinshaw & Culbertson LLP prepared a detailed overview of the litigation, available [here](http://www.legalethicsforum.com/).

- **Covington and Burling's Disqualification in State of Minnesota v. 3M**
  In October, the Minnesota District Court found that Covington & Burling LLP violated its duties to its former client when it agreed to represent the Minnesota Attorney General against its longtime corporate client, 3M. The Court disqualified Covington & Burling from continuing its representation of the State against 3M finding that the current representation was substantially related to the former representation of 3M. Covington and the State of Minnesota are appealing the disqualification order, available [here](http://www.legalethicsforum.com/), arguing that an appropriate Screen is in place to overcome the conflict. Professor Alberto Bernabe of the John Marshall Law School has been following this on-going saga [here](http://www.legalethicsforum.com/). Including links to the original opinion [here](http://www.legalethicsforum.com/).
