To The ABA STANDING COMMITTEE (hereinafter the “Committee”) ON ETHICS AND PROFESSIONAL RESPONSIBILITY’S WORKING DRAFT AMENDMENT TO ABA MODEL RULE OF PROFESSIONAL CONDUCT 8.4

Dear Committee Members:

I write to express my grave concern regarding the proposed amendments to Model Rule of Professional Conduct 8.4. Other commenters have given voice to many of the problems with these proposed amendments, including the constitutional issues, and I shall confine myself to several points that are, to me, the most egregious in the proposed amendments. As a threshold matter, the Committee’s new Rule amendments can subject attorneys to discipline and possible disbarment for engaging in conduct that neither affects the attorney’s fitness to practice law or that interferes with the efficient operation of the judicial system.

Frighteningly, the new rule takes away the freedom and the greatest expression of a lawyer’s professional and moral autonomy to take on a case or representation, or whether to decline a case, or whether to withdraw from representation once undertaken. If the Committee’s proposed amendments are adopted, attorneys will be subject to professional discipline for acting in accordance with their professional and moral judgment when making decisions about whether to accept, reject, or withdraw from certain cases. Under the new amendments to Model Rule 8.4, any attorney will be affirmatively and practically precluded from declining certain clients or cases. This may enable the legal profession to go on witch-hunts against certain attorneys. In the current climate, the witch-hunt may go against Christian attorneys or others supportive of traditional marriage, but one could easily imagine that it could be used at a not-so-distant future to go against attorneys from minority religions, including Muslim attorneys, and also gay and lesbian attorneys. Just as in the case where gay individuals have deliberately sought out Christian bakers, wedding planners, photographers, etc., to force them to go against their consciences and religious beliefs to provide services, we can fully expect that certain individuals will deliberately target lawyers who are devout Christians, or other more conservative or religious traditionalists in an effort to silence them for their moral stand and to force them from the practice of law. This is not justice just as forcing Jews from professions, including the legal profession, during the Nazi
times was unjust. I saw just the other day that Chinese government has now announced that they will no longer permit depictions of gay individuals in any Chinese media. Under the proposed amendments, it is easy to envision that an entertainment or business lawyer licensed in the United States would be unable to represent Chinese media companies in the United States, or to represent American or other Western companies that sell entertainment services into China. In the proposed amendments, lip service is blithely paid by the Committee that lawyers can retain a “private sphere” of opinion. But if freedom of speech and the free exercise of religion is limited to what goes on in an attorney’s mind, or church, synagogue, or mosque, and/or in some recesses of my home, then the Committee has made the First Amendment a dead letter. I can assure you that if the Committee’s amendments are adopted, they will be impossible to repeal and will invariably spread throughout the states. Should the proposed amendments be adopted, then the ABA will greatly jeopardize and drive out of the legal profession lawyers who are devout Christians, marriage traditionalists, and proponents of First Amendment rights.

Most respectfully submitted,

Michael Avramovich

Michael P. Avramovich, Esq.
Avramovich & Associates, PC
70 West Madison Street, Suite 1400
Chicago IL 60602
Phone: 312.541.8500
Fax: 312.541.8558