I. Approval of Minutes: The members approved the minutes of the February 6, 2016 business meeting conducted in San Diego.
II. **Chair’s Report:** Chair Barbara Howe welcomed the members of the Committee and reminded them of the Committee’s mission to serve as a network for the exchange of information about ongoing projects and programs related to ethics and professionalism. She asked that the members share what they have learned from their Section/Division Councils as well as from their ethics and professionalism committees. Chair Howe stressed the importance of Committee members advising the Center for Professional Responsibility (CPR) of any developing resolutions with reports that have ethics, professional responsibility law, or regulatory components and that may be going before the ABA House of Delegates. The CPR can assist the Sections/Divisions in ensuring that their resolutions comply with existing Association policies in the area of professional responsibility law.

Chair Howe reminded the Section/Division liaisons that each Section/Division will be asked to contribute $200 towards the FY16-17 finances of the CPR/SOC Professional Responsibility Committee.

Finally, Chair Howe encouraged all Committee members and liaisons to attend the 43rd National Conference on Professional Responsibility, 33rd National Forum on Client Protection, and Annual National Specialization Roundtable that will be conducted June 1-3, 2017 at the Hyatt Regency Hotel in St. Louis.

III. **Center for Professional Responsibility Director’s Report:** Director Art Garwin reported that the Center’s budget for FY 16-17 is in good shape. He stated that FY17-18 will present a financing challenge to all ABA entities. Director Garwin noted that the lawyer membership numbers for the Center are holding steady whereas lawyer membership numbers for other ABA entities are declining.

IV. **2016 Supplemental Report of the APRL Regulation of Lawyer Advertising Committee:** Lynda Shely, President of the Association of Professional Responsibility Lawyers (APRL), and Mark Tuft, Past APRL President, gave a brief presentation on APRL’s supplemental advertising report. They reported that the supplemental report concludes that the legitimate regulatory objectives of preventing overreaching and coercion by lawyers who use in-person solicitation and targeted communications with the primary motivation of pecuniary gain can best be achieved by combining provisions of ABA Model Rules 7.2 and 7.3 in a single rule. Ms. Shely and Mr. Tuft stated that APRL believes that lawyer advertising is over-regulated and the rules regulating lawyer advertising are under-enforced. The APRL supplemental report seeks to simplify the regulatory framework for lawyer advertising. They reported that there will be a public hearing held on the supplemental report in February 2017 in conjunction with the ABA 2017 Midyear Meeting.


V. **ABA Commission on the Future of Legal Services:** Director Garwin reported that the ABA Commission on the Future of Legal Services will issue its final report and recommendations at a public program on Saturday, August 6, 2016 in San Francisco. He
stated one of the recommendations will be that the ABA create an “Innovation Center” and an on-line dispute resolution service. The Center for Professional Responsibility would have a direct involvement with the Innovation Center.

http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf

(Note: At its August 4-5, 2016 business meeting, the Board of Governors approved the request to create the ABA Center for Innovation (“Center”) and to seek outside funding to continue the Center’s operations).

VI. Resolutions with Reports to the House of Delegates – 2016 ABA Annual Meeting

A. Resolution 106: C. Elisia Frazier, Chair of the Standing Committee Lawyer Referral and Information Service, John Pinney, Cincinnati Bar Delegate, and David Keyko, The Association of the Bar of the City of New York, reported that Resolution 106 urges federal, state, territorial and tribal courts and legislative bodies to adopt rules or enact legislation to establish an evidentiary privilege for lawyer referral services and their clients (“LRS clients”) for confidential communications between an LRS client and a lawyer referral service when an LRS client consults a lawyer referral service for the purpose of retaining a lawyer or obtaining legal advice from a lawyer. They noted that the ABA previously expressed support for the goal of Resolution 106 in August 1993 when it adopted the ABA Model Supreme Court Rules Governing Lawyer Referral Services and the ABA Model Lawyer Referral and Information Service Quality Assurance Act. They reported that there is no known opposition to Resolution 106.

(Note: Adopted, August 8, 2016).

B. Revised Resolution 109: Barbara Gillers, a member of the Standing Committee on Ethics and Professional Responsibility, and Lucian Pera, Chair of the Center for Professional Responsibility Coordinating Council, reported that the Standing Committee on Ethics and Professional Responsibility has issued a Revised Report with Resolution to amend ABA Model Rule of Professional Conduct 8.4 and Comment [3] to Rule 8.4. The proposal reflects the 2-year effort of the Ethics Committee to examine how the Model Rules of Professional Conduct address discrimination and harassment by lawyers. Ms. Gillers noted Revised Resolution 109 provides that it is professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination. She further noted that amended Model Rule 8.4 would not preclude legitimate advice or advocacy consistent with these rules. Ms. Gillers stated that the amended Commentary to Model Rule 8.4 provides that a trial judge’s finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of paragraph (g) of amended Model Rule 8.4. Mr. Pera reported that Revised Resolution 109 now has the additional support of the ABA Board of Governors, ABA Section of Litigation, and the Association of Professional Responsibility Lawyers (APRL).

(Note: Revised Resolution 109 Adopted, August 8, 2016).

C. Resolution 114: Counsel Holtaway reported that Resolution 114 proposes that courts and other governmental entities, bar associations, non-profit organizations and
entrepreneurial entities that make forms for legal services available to individuals through the Internet to provide clear and conspicuous information on how people can access a lawyer or a lawyer referral service to provide assistance with legal matters.
(Note: Adopted, August 9, 2016).

VII. Reports from Section/Professional Responsibility Committees and Liaisons:

A. National Organization of Bar Counsel (NOBC): William Slease reported that the Office of Disciplinary Counsel in Washington D.C. is finalizing the 5th International Conference of Legal Regulators that will take place in Washington D.C. on September 15 and 16, 2016. Mr. Slease noted there will be a program on the subject of Proactive Management-Based Regulation (“PMBR”): Reimagining the Future: How Proactive Measures Can Reshape a “Lawyer Discipline System” into a “Lawyer Integrity System.” https://iclr.net/conference-2016/

B. CPR Policy Implementation Committee: Chair John Gleason reported that the Committee continues its implementation efforts with regard to the Model Code of Judicial Conduct and the recommendations of the Commission on Ethics 20/20. The Committee is prepared to implement Revised Resolution 109 (Mole Rule 8.4), if it is adopted by the ABA House of Delegates.

C. Standing Committee on Specialization: Chair Shontraï Irving reported that the ABA Board of Governors approved the request of the Specialization Committee to license the ABA logo to programs that it certifies, subject to approval of licensing terms and prices to be recommended by the Office of the General Counsel.

D. Section of Litigation: Thomas Wilkinson stated that former Ethics and Professionalism Committee Co-Chair Gregory Hanthorn moderated a program entitled “Thou Vile Hunchbacked Toad: The Ethics of Insults,” at a Section of Litigation CLE program at the ABA Annual Meeting in San Francisco, on Friday, August 5, 2016. He noted that the program was well-received. Irwin Warren reported that the Litigation Section worked with the Standing Committee on Ethics and Professional Responsibility and the Standing Committee on professional Discipline to resolve the Section’s concerns regarding Revised Resolution 109 and that the Litigation Section now supports Revised Resolution 109.

E. Senior Lawyers Division: Albert Harvey reported that membership in the Division has increased dramatically since the ABA Board of Governors approved the Division’s request for free auto-enrollment in the Division for ABA dues-paying members who are 62 years old and older. General Harvey stated that the Division recently presented a program in Tempe, AZ on counseling clients with Alzheimer’s Disease.

F. ABA Governmental Affairs Office (GAO): Counsel Larson Frisby reported that the GAO, ABA Gatekeeper Task Force, and the Association are urging the U.S. Treasury Department to protect client confidentiality in the new beneficial ownership disclosure
rule as it applies to client trust accounts: law firms could be required to disclose their interest in such accounts, but not the name of their client. Counsel Frisby noted that the U.S. District Court for the Northern District of Texas granted a nationwide preliminary injunction last month preventing the Department of Labor (DOL) from implementing any part of the new persuader rule that the ABA says would require many management-side labor lawyers to divulge confidential client information to the federal government.

G. **Center Diversity Committee:** Chair Janet Green Marbley noted that the ABA now has a policy that all CLE programs must have a diverse panel of presenters. She stated the Committee is excited about the issuance of the Report of the Diversity and Inclusion 360 Commission. [http://www.americanbar.org/diversity-portal/diversity-inclusion-360-commission.html](http://www.americanbar.org/diversity-portal/diversity-inclusion-360-commission.html)

H. **Center CLE Committee:** Chair Tracy Kepler reported that there were 285 attendees at the 42nd National Conference on Professional Responsibility held June 1-3, 2016 in Philadelphia. She noted that the 43rd National Conference on Professional Responsibility will be conducted June 1-2, 2017 at the Hyatt Regency Hotel in St. Louis. Ms. Kepler stated that the Committee is developing “ethics school” programs: skills basics that can be utilized by young lawyers, solo practitioners, and as a resource for smaller state disciplinary agencies that do not have their own CLE programs. She noted the Committee will also be developing “hot topics” webinars.

I. **Section of Health Law:** Section Chair William Horton stated that the Section will be presenting a webinar on August 17, 2016 entitled *Fraud and Compliance Fundamentals for Physician Representation* and will be conducting and will be presenting its 14th Annual Washington Health Law Summit on December 12-13, 2016 in Washington D.C. Chair Horton reported that the Section will be working with the Standing Committee on Specialization to possibly develop a specialist certification for health care lawyers.

J. **Section of Business Law:** Vice-Chair Rew Goodenow reported that the Business Law Section voted to direct its House Delegates to move to postpone Revised Resolution 109.

K. **Standing Committee on Professionalism:** Chair Jayne Reardon reported that the Committee is developing a CLE program based upon its publication *The Relevant Lawyer: Reimagining the Future of the Legal Profession.* Ms. Reardon stated she developed “The Future Is Now” conference for lawyers and judges held in Chicago in April 2016. The well-attended Conference was approved by the ABA Commission on the Future of Legal Services as a “grass roots” program, for its purposes. Finally Ms. Reardon noted how grateful the recipients of this year’s E. Smythe Gambrell Professionalism Awards were.

L. **Section of International Law:** Professor Laurel Terry encouraged everyone to attend the 5th International Conference of Legal Regulators that will take place in Washington D.C. on September 15 and 16, 2016. Professor Terry noted that a list serve
has been created for Canadian and United States lawyer discipline regulators. She stated that there a new organization has been created: International Organization of Legal Ethics. Professor Terry reported that ABA Task Force on International Trade in Legal Services is now the Standing Committee on International Trade in Legal Services. Finally, Professor Terry noted that the District of Columbia Bar Global Legal Practice Task Force has issued its Interim Report.


M. **Section of Dispute Resolution:** Larry Bridgesmith reported that the Section’s Council met during the 2016 ABA Annual Meeting and voted to support Revised Resolution 109.

IX. **CPR Awards and Scholarships:**

**A. 2016 Michael Franck Professional Responsibility Award:** Wallace E. “Gene” Shipp, Jr., Disciplinary Counsel for the District of Columbia Office of Disciplinary Counsel, is the recipient of the 2016 *Michael Franck Professional Responsibility Award*. Mr. Shipp received the award at the 42nd National Conference on Professional Responsibility in Philadelphia from ABA President Paulette Brown. [http://ambar.org/MichaelFranckAward](http://ambar.org/MichaelFranckAward)

**B. 2016 E. Smythe Gambrell Professionalism Awards:** The annual competition honors bar associations, law schools, law firms and not-for-profit law-related organizations for effective, ongoing professionalism activities. Three 2016 Gambrell Awards, each with a cash prize of $3,500 funded by the E. Smythe Gambrell Fund for Professionalism, will be presented at the 2016 ABA Annual Meeting. [http://www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/prevwinners1.html](http://www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/prevwinners1.html)

**C. 2016 Rosner and Rosner Young Lawyers Award:** Virgin Islands attorney Anthony Ciolli, special assistant to Chief Justice Rhys S. Hodge of the Supreme Court of the Virgin Islands, is the recipient of the 2016 Rosner & Rosner Young Lawyers Professionalism Award. Mr. Ciolli received the award during the National Conference on Professional Responsibility in Philadelphia. [http://Ambar.org/RosnerAward](http://Ambar.org/RosnerAward)

**D. Jeanne P. Gray Diversity Scholarship:** The Jeanne P. Gray Diversity Scholarship was created in 2014 in memory of her over 30 years of dedication to the ABA and its Center for Professional Responsibility. Each year, on a rotating basis, a national diverse bar association will be invited to select a recipient to become an honored member of the Center’s family and explore ways we might work more closely together with their host bar. Judy Man-Ling Lam, a California attorney with Kumagai Law Group, was selected as the recipient of the 2016 Jeanne P. Gray Diversity Scholarship. Representing the National Asian Pacific American Bar Association (NAPABA), Ms. Lam will help to develop synergies with the NAPABA community to utilize the Center’s resources. [http://ambar.org/cprdiversity](http://ambar.org/cprdiversity)
X. Future Business Meetings:

A. Teleconference
   October 2016
   Date/Time (TBD)

B. 2017 ABA Midyear Meeting
   Saturday, February 4, 2017
   12:00 P.M. – 2:00 P.M.
   Hotel TBD
   Miami, FL

XI. Future CPR Conferences:

- 2017 – 43rd National Conference on Professional Responsibility, June 1-2, 2017 and
  33rd National Forum on Client Protection and ABA National Specialization Roundtable,
  June 2-3, 2017, Hyatt regency Hotel, St. Louis, MO.

Respectfully submitted,

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Lead Senior Counsel
Client Protection and Policy Implementation