

Laurel G. Bellows
President

AMERICAN BAR ASSOCIATION

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July 31, 2013

Re: Informing Your Bar Members About ABA Formal Ethics Opinion 463 on Client Due Diligence, Money Laundering and Terrorist Financing

Dear Fellow Bar President:

On behalf of the American Bar Association, I write to ask for your assistance in addressing an issue that is an important component of our ongoing efforts to fight money laundering while preserving the independence of the legal profession.

Specifically, your help is needed to alert your bar's members regarding new ABA Formal Ethics Opinion 463, which encourages lawyers to engage in appropriate client due diligence to avoid inadvertently participating in or facilitating money laundering or terrorist financing activities. The ABA Formal Opinion, which was adopted by our Standing Committee on Ethics and Professional Responsibility on May 23, 2013, explains the benefits of complying with the ABA Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing, and why the Voluntary Guidance is fully consistent with a lawyer's ethical obligations of loyalty and confidentiality under the ABA Model Rules of Professional Conduct and the corresponding ethical rules in individual jurisdictions.

As we wrote in [our April 2011 letter](#) to your bar, the ABA believes the Voluntary Guidance, which encourages lawyers to take a tailored, "risk-based" approach to client due diligence, is the most effective means of both combatting money laundering and avoiding the adoption of much more burdensome "rules-based" legislation and regulations that could undermine the attorney-client privilege, the confidential lawyer-client relationship and traditional state court regulation and oversight of the legal profession.

Although these types of mandates have already been imposed on lawyers in certain non-US jurisdictions, including various countries in Europe, the ABA has consistently taken the position that any similar attempts to regulate lawyers and law firms as "financial institutions" under the existing anti-money laundering laws will have deleterious effects on the legal profession, the rule of law, and the clients we serve. Instead, we believe the legal profession should use existing ethical obligations—and voluntary guidance designed for lawyers—to more effectively address the legitimate concerns of US government officials in combatting money laundering activity.

Therefore, we would greatly appreciate any assistance that you and your bar could provide in encouraging your members to follow the Voluntary Guidance, as well as the ABA Formal Opinion that explains the Guidance and how it is consistent with a lawyer's ethical obligations under the Model Rules and applicable law.

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To accomplish these goals, please consider educating your bar about this issue through whatever communications best reach and suit your members, whether an article, column, or other medium. When communicating with your members, please also let them know about the upcoming ABA webinar on the new ABA Formal Opinion and the ABA Voluntary Guidance, which will take place on September 25, 2013. (For more information about the upcoming ABA webinar, please see the [ABA Standing Committee on Ethics and Professional Responsibility website](#).)

In addition, please also consider disseminating the full text of [ABA Formal Opinion 463](#), the [ABA Voluntary Guidance](#), and our "[Frequently Asked Questions](#)" regarding the Voluntary Guidance directly to your members. Links to these items could be posted on your bar's website and sent to your members through your monthly bar journal, a special email message from you or other appropriate bar leaders, or other appropriate channels.

If you have any questions or need additional information, please contact Kevin Shepherd, the Chair of the ABA Task Force on Gatekeeper Regulation and the Profession, at 410-244-7772, klshepherd@venable.com, or Larson Frisby of the ABA Governmental Affairs Office at 202-662-1098, larson.frisby@americanbar.org.

Thank you again for your bar's continuing assistance on this issue, which is so important to our nation, our profession, and the clients that we serve.

Sincerely,

A handwritten signature in blue ink that reads "Laurel G. Bellows". The signature is written in a cursive, flowing style.

Laurel G. Bellows
President, American Bar Association