

## **NFPA Informal Ethics and Disciplinary Opinion No. 05-1**

The following opinion of the Ethics Board of the National Federation of Paralegal Associations, Inc. (NFPA) is offered based upon NFPA's positions and research in the area of paralegal ethics and discussion and research by the members of the Ethics Board. This opinion should not be construed as binding and must be interpreted in conjunction with the applicable state's Supreme Court rules and opinions governing the professional conduct of members of the legal profession.

### **FACTS:**

A paralegal working in a small law office was asked to attend a CLE seminar for their supervising attorney. The paralegal was instructed to list the attorney's name and bar number on the sign-in sheet and take careful notes. The attorney, by asking the paralegal to sign in using their name and bar number, would receive credit for the seminar with the bar association while not actually attending the course. The paralegal did as instructed, enjoyed the seminar and brought back to the office the seminar materials for the attorney to review.

### **QUESTION:**

Did the paralegal act ethically by signing in as the lawyer and indicating to the bar association that the lawyer attended the CLE seminar and thereby receiving the appropriate CLE credits?

### **OPINION:**

While the paralegal may have enjoyed the seminar and gained from the experience, the paralegal's actions were unethical. Representing yourself to be anyone other than who you are is unethical when done for the purpose of deceiving another and can carry serious legal and professional consequences.

### **DISCUSSION:**

When the paralegal was first presented with the request to sign in on behalf of the attorney at the CLE, the paralegal should have refused to make such a misrepresentation and communicated to the attorney that such a representation would not only be unethical but could also be fraud. If the attorney continues to insist that the paralegal attend the seminar as instructed, the paralegal should inform an Office Manager, Senior Partner, or other appropriate firm official in writing of what the paralegal has been asked to do and that the paralegal refused to do it. Further, the paralegal may be required to report such an indiscretion to the local bar association or a disciplinary committee/commission if required by state their state.

If the paralegal does attend the CLE, the paralegal should indicate that their attendance was in place of the attorney on the CLE sign-in form, thereby not misrepresenting the situation.

If the paralegal did not realize that their actions were unethical until after attending the seminar and signing in as the attorney, the paralegal should take any and all steps necessary to rectify the situation, including, but not limited to, discussing the unethical nature of their actions with the attorney they signed in as and contacting the State Bar in writing regarding their actions and requesting the CLE credits be removed from the attorney's record.

THE FOLLOWING AUTHORITIES ARE CITED IN SUPPORT OF THIS OPINION:

NATIONAL FEDERATION OF PARALEGAL ASSOCIATIONS, INC. MODEL  
CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY AND GUIDELINES  
FOR ENFORCEMENT

EC-1.3 b A paralegal shall avoid impropriety and the appearance of impropriety and shall not engage in any conduct that would adversely affect his/her fitness to practice. Such conduct may include, but is not limited to: violence, dishonesty, interference with the administration of justice, and/or abuse of a professional position or public office.

EC-1.3(d) A paralegal shall advise the proper authority of non-confidential knowledge of any action of another legal professional that clearly demonstrates fraud, deceit, dishonesty, or misrepresentation. The authority to whom the report is made shall depend on the nature and circumstances of the possible misconduct, (e.g., ethics committees of law firms, corporations and/or paralegal associations, local or state bar associations, local prosecutors, administrative agencies, etc.). Failure to report such knowledge is in itself misconduct and shall be treated as such under these rules.

EC-1.3(e) A paralegal shall not knowingly assist any individual with the commission of an act that is in direct violation of the Model Code/Model Rules and/or the rules and/or laws governing the jurisdiction in which the paralegal practices.

ABA Model Rules of Professional Conduct:

Rule 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(b) 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

(c) a lawyer shall be responsible for conduct of such person that would be a violation of the rules of Professional Conduct if engaged in by the lawyer if:

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

(2) the lawyer is a partner 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.

“Rule 8.4 Misconduct:

It is professional misconduct for a lawyer to...

c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

\*\*\* By making a request to the National Federation of Paralegal Associations (NFPA) for an opinion and/or recommendation concerning proper conduct for a member of the legal profession as it pertains to ethical conduct, obligations, utilization and/or discipline of paralegals, the inquirer and his/her employers, employees, agents, and representatives agree to indemnify, hold harmless, and defend the NFPA, its Officers, Directors, Coordinators, Ethics Board and Managing Director from any claims arising from any act or omission of NFPA except those occasioned by NFPA's willful or deliberate acts.