Connecticut's Take On "Taking a Stake" Part II

By John D. Moore

Part I of this article reviewed a series of ethics opinions and articles that discussed the ethical permissibility of an attorney taking client equity as pay for legal services. Most of the authors (collectively the "commentators") felt it was proper to do so if the attorney complied with Rules 1.8(a) (business transactions with clients), 1.5(a) (reasonableness of fee), 1.7(a) (2) (formerly 1.7(b)) (indirect conflicts) and 2.1 (independent counsel). Part II examines Connecticut jurisprudence on this issue, including changes in our Rules of Professional Conduct, grievance and civil cases, and ethics opinions.

Recent Ethics Rules Changes: Greater Emphasis on Equity as Fee and Related Issues

The "Ethics 2000" rules revisions that went into effect in Connecticut on January 1, 2007, included changes to the Rules and their Commentary sections which reflect a sharpened focus on business transactions between client and attorney and on indirect conflicts.

The most relevant amendments are changes to the Commentaries to Rules 1.5 and 1.8(a). The "Terms of Payment" section to 1.5's Commentary now reads, "a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client."(fn1) Its corollary, found in the "Business Transactions Between Client and Lawyer" section of the Commentary to Rule 1.8, states, unambiguously, that Rule 1.8(a)"'requirements must be met when the lawyer accepts an interest in the client's business...as payment of all or part of a fee."(fn2) Although the Commentaries "do not add obligations to the Rules," they "explain[ ] and illustrate[ ] the meaning and purpose of the Rule." (fn3) These two Commentary amendments clearly indicate that Rule 1.8(a) governs all transactions in which an attorney takes an interest in her client's business as a fee.

Further, the new Commentary to Rule 1.8(a) now states that, "A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client."(fn4) By invoking the language of a fiduciary relationship, this amendment underscores that the attorney who takes client equity for a fee will be subject to the universal presumption against attorney-client business relationships. (See Section 2. below).

The requirements of Rule 1.8(a) (2) and (3) are now more explicit, too. Not only must the lawyer advise the client in writing that the client should consider the advice of independent counsel, but now the lawyer must advise the client in writing of the "desirability" of seeking independent
"legal" counsel. Further, the client must now give "informed consent" (newly defined in Rule 1.0(f) as client agreement to a proposal after the attorney has adequately communicated information as to the proposal, its material risks, and alternatives thereto) to the "essential terms of the transaction and the lawyer's role in the transaction."

The amended Commentary to Rule 1.7 also contains several pertinent revisions. It identifies, as two indirect conflicts, when a lawyer who represented several persons forming a joint venture cannot recommend alternative positions to each because of the duty of loyalty owed to all and when a lawyer serves as a client's corporate director. Both of these examples are analogous to the indirect conflicts which may arise when an attorney is a shareholder in a client corporation. Moreover, new sections on "Revoking Consent" and "Consent to Future Conflict" remind us of the danger inherent when an attorney takes equity as a fee, but continues the attorney-client relationship. Consent may be revoked by the client at any time and the lawyer terminated,(fn5) requiring the attorney to return "advance fees" which may be difficult to quantify. Moreover, the effectiveness of consent to future conflicts will only be as good as the quality of "informed consent" received.(fn6) Given the complexity of potential conflicts inherent in this context, attempts to disclose them may not, in hindsight, prove to be effective.

1. Connecticut's Take on Rule 1.8(a)

Connecticut civil cases, grievance decisions, and ethics opinions construing business transactions with clients apply the requirements of Rule 1.8(a) quite strictly, including subsection (4), leading us to believe that they would do the same when considering a lawyer taking an equity position in her client.

Connecticut sides with national jurisprudence in viewing business transactions with clients as suspect. One ethics opinion understatedly comments, "although the Rules of Professional Conduct permit business transactions between client and lawyer, these transactions are not the favorite of the law," and proceeds to state, citing our Supreme Court, that "there are no transactions respecting with which courts of equity are more jealous and particular, than dealings between attorneys and their clients, especially where there is great intellectual inequality, and comparative experience on the part of the latter."(fn7) In equally forceful language, another business transaction ethics opinion advises that, "a lawyer who seeks to engage in other business or professional activity must be ever vigilant. The lawyer needs to take a top-to-bottom review of his or her law practice and determine the many ways in which the practice of the other profession and the law practice may impact upon the other."(fn8)

Most Connecticut cases construing business transactions with clients turn out badly for the attorney who has not strictly complied with subsections (1)-(4) of Rule 1.8 (a), notwithstanding substantial compliance or good faith. Kolb v. Mazzucco(fn9) is a prime example of this. In this decision, an attorney lost a piece of property given as consideration of legal services, even though the clients had otherwise failed to pay(fn10) Although the lawyer had verbally complied with all the requirements of 1.8(a), he failed to advise his clients in writing of the transaction and its terms, of the benefits of seeking independent counsel and whether he was acting as attorney or business partner, and failed to secure written client consent.(fn11) The court deemed the several writing requirements of Rule 1.8(a) "mandatory."(fn12) Of deep interest to those
predicting how a Connecticut court would treat taking a stake, the court used such an example, as
discussed by Professors Hazard and Hodes,(fn13) to conclude that, while there is nothing
"improper with taking an interest in property owned by the client in lieu of a fee," Rule 1.8(a)
"was created to protect consumers of legal services in a legal relationship with an attorney [and] its ameliorative purposes must be given a broad reading."(fn14) Therefore, even though the
clients had stiffed the lawyer on his fees, the lawyer had verbally complied with the Rule, the
lawyer had otherwise acted in a proper and ethical manner, the clients advanced no evidence of
prejudice, and the clients and the attorney were neighbors, and had been close friends with a
"family-type relationship at the time of the transactions," the court granted summary judgment
for the clients on the basis of Rule 1.8(a) (fn15)

*Kolb* epitomizes Connecticut's uncompromising view of 1.8(a). Friendship was eschewed as a
defense to strict compliance in at least two other matters.(fn16) Former clients, as well as present
clients, are protected by Rule 1.8(a). Failure to make a profit off of the business transaction
does not render it something other than a business transaction for purposes of applying the
Rule.(fn18) 1.8(a) pertains as long as an attorney still represents the client, even though the
attorney may claim that he was acting as a business-person, and not an attorney, in the
transaction.(fn19) Even when an attorney clearly advised the client in writing to seek the advice
of other counsel, he violated Rule 1.8(a) (3) because he did not procure consent in writing, and
the court declined to infer consent from the client's decision to proceed with the business
transaction.(fn20)

Connecticut, like some of the commentators, believes that one must view Rule 1.8(a) through the
lens of Rule 2.1, which requires the lawyer to give "candid advice" and exercise independent
judgment" on behalf of the client.(fn21) As a result, unlike many of the commentators who
ignore subsection (a) (4), Connecticut jurisprudence focuses on the necessity of clearly
explaining in writing to the client whether the lawyer is acting as a lawyer or as a business
partner. Several cases and opinions do this by citing to subsection (a) (4),(fn22) but others
admonish that it is "vital that the client understand whether the attorney is acting as an attorney
in this situation, and, therefore whether the client may seek legal advice from the attorney, or
whether the attorney is simply acting as a business person under this situation, and, is, therefore,
not a person to whom the client can turn for legal advice concerning the transaction," (italics in
original)(fn23) and that "the scope of representation must be made clear in order that there be no
confusion between legal services and the [other business services provided by the attorney to the
client.]"(fn24)

At least two cases adopted an apparently more liberal view of Rule 1.8(a), but even these cases
sounded cautionary notes about lawyers getting involved in business transactions with clients. In
*Twachtman v. Hastings*(fn25) and *Caciopoli v. Latella,*(fn26) each lawyer thwarted the
client/defendant's attempts to use Rule 1.8(a) as a device to deny recovery of fees.

In *Caciopoli*, the plaintiff attorney took an equity stake in a client business, but the court found
that Rule 1.8(a) did not apply. The plaintiff attorney alleged that he, the defendant Latella and
three other individuals agreed to form a corporation to run a landfill, and that the five individuals
agreed, before incorporation, that they would each receive a 20 percent share in the profits and
losses.(fn27) In consideration for his alleged 20 percent interest, the plaintiff attorney
incorporated the entity and secured a contract for the landfill to operate.\(fn28\) The plaintiff alleged conversion against Latella, claiming that Latella, the principal in control, diverted a portion of the plaintiff's 20 percent profit to his own use. The plaintiff further averred that Latella breached an oral contract to pay the plaintiff his 20 percent share.\(fn29\) The defendant argued that the attorney's stake was only to be 10 percent and that Rule 1.8(a) (1) would bar the plaintiff from recovering on his claim for breach of an oral contract in that "none of these claimed terms of Caciopoli's 20 percent interest in this business venture were ever transmitted in writing to either Latella" or the corporation.\(fn30\) The plaintiff countered by claiming that 1.8(a) did not apply because, while the corporation was his client, Latalla, the defendant he sued, was only his business partner.\(fn31\) The court agreed with the plaintiff and held that the defendant Latella was never the plaintiff's client.\(fn32\) As a result, the court never had to analyze Rule 1.8(a). This victory, however, was brief and pyrrhic, because the court held that the plaintiff had not sustained his burden of proving that Latella owed him a 20 percent share.\(fn33\)

Because the court found that 1.8(a) was inapplicable to the facts presented, the lessons one can draw from Caciopoli are limited. This decision was written in 1995, before the courts became sensitized, through the commentators and other decisions, to the impact of the business transaction rule on taking client equity for payment. One example of this is that the court, in footnote 6, citing only to subsection (1), states that 1.8(a) "provides in full" as follows.\(fn34\) It is doubtful that a Connecticut court today would decline to mention, as discussed above, subsections (2)-(4). Further, if the lawyer sued the corporation, which actually made the profits, as opposed to an individual officer, a Connecticut court today would certainly apply Rule 1.8(a), as the corporation was the client.

Twachtman is even more interesting. In this case, the plaintiff attorney moved to foreclose upon a mortgage granted to him by the defendant client to secure the payment of legal fees.\(fn35\) In an effort to defeat the action, or to diminish the amount to be secured, the defendant client claimed, as have many of the cases and opinions cited above, that a lawyer is a fiduciary to his client and that there is a presumption of undue influence in business transaction cases.\(fn36\) Moreover, the defendant claimed that the plaintiff never advised the defendant in writing to seek the advice of independent counsel.\(fn37\) In a thoroughly-researched opinion, Judge Hammer shot down each of these arguments. Incisively noting that the client had always been satisfied with the plaintiff's work until this bill came due, the court underscored the plaintiff's compliance with subsections (a) (1) and (3) by finding that the plaintiff had fairly described the terms and the transaction, that the terms were fair to the client, and that the client had consented to them. Even though the plaintiff had not advised the client in writing to seek independent counsel, the plaintiff had advised the client orally to do so. Moreover, Connecticut authority provides that the presumption of undue influence is a presumption of fact, "and where the court finds that there is no evidence of unfairness or of unconscionability, there is no indispensable requirement that the client actually receive such advice from another attorney or that he be instructed by his attorney that such an alternative is available to him."\(fn38\) The court held that the plaintiff was entitled to enforce the note and mortgage.\(fn39\)

Twachtman obviously provides greater comfort to an attorney who has not complied strictly with the mandates of Rule 1.8(a). Before lawyers grow too optimistic, however, we note that in Twachtman, the equities and credibility tilted strongly in favor of the attorney. Judge Hammer
clearly smelled a rat. As the court pointed out, "the conduct of a litigant with respect to the matter in dispute, 'whether by acts, speech or writing, which is clearly inconsistent with the truth of his contention, is a fact relevant to the issue....The inconsistency between the offer initiated by [the client] to reinstate Twachtman as his attorney for the appeal and the earlier correspondence questioning the reasonableness of his fee and the caliber of his services was never satisfactorily explained by the defendant in the course of his testimony."(fn40)

The alarm sounded by Caciopoli and Twachtman, as well as by Kolb, is that a client might very well be able to defeat an otherwise perfectly legitimate claim by a Connecticut attorney for the recovery of her promised equity stake if the lawyer has not complied precisely with every requirement of Rule 1.8(a). As Kolb sagely pointed out, "the eventualities to be avoided by requirements such as the writing requirement [in 1.8(a)] include not only wrongdoing by lawyers but just as importantly false claims of wrongdoing by clients."

2. Connecticut's Take on Rule 1.5(a)

Connecticut jurisprudence has not delved deeply into the application of Rule 1.5(a) to fee agreements in the context of business transactions with clients. The Ethics Committee has recognized that complex fee agreements, including a hybrid hourly/contingency fee arrangement in a high-stakes, complicated matter, may be ethically appropriate as long as they comply with the other requirements of 1.5, including reasonableness and the writing requirements of 1.5(b) and (c).(fn41) Our Supreme Court has noted that, when reviewing attorney's fees for reasonableness under 1.5(a), "Connecticut courts traditionally examine the factors enumerated in Rule 1.5(a),"(fn42) the so-called "laundry list" of factors listed in 1.5(a) (1)-(8). Because the Ethics Committee has opined that 1.5(a) applies to business transactions(fn43) and the superior court has cited with approval Professors Hazard and Hodes' statement that an agreement to take client equity as a fee must satisfy 1.5(a),(fn44) Connecticut courts would likely, as the commentators have posited, attempt to apply the relevant listed factors, but may struggle with the difficulty of valuing client equity which was not publicly traded at the time it was received by the attorney.

3. Connecticut's Take on Rule 1.7(a) (2)

The commentators were concerned about conflicts arising under Rule 1.7(a) (2)(fn45) when a lawyer accepts client equity as payment, especially those between the lawyer's personal financial interest and the client's interests, and between the client and other or former clients. The commentators were also concerned about satisfying the requirements of Rule 1.7(b) which allow a lawyer to continue to represent a client when such a conflict arises. When faced with a 1.7(a) (2) conflict, a lawyer is prohibited from continued representation unless (1) the lawyer "reasonably believes" that she will be able to provide "competent and diligent representation to each affected client;" (2) the representation is not prohibited by law; (3) there are no directly adverse claims by one client against another in the same proceeding and (4) each affected client gives "informed consent confirmed in writing."(fn46) In particular, the commentators made two points: 1.7(a) (2) conflicts flowing from a lawyer taking a stake may not be waivable because a disinterested attorney would not believe that she could competently and diligently represent the affected client and it may, in this context, be extremely difficult to provide the appropriate
measure of disclosure to secure informed consent. Drawing upon the Connecticut business transaction cases discussed in Section 2. above and the Connecticut opinions and cases interpreting 1.7(a) (2) conflicts reviewed below, we believe that Connecticut will strictly construe the mandates of 1.7(a) (2) and 1.7(b) when applied to an attorney taking client equity for payment.

Relevant Connecticut ethics opinions understand that the duty of loyalty embodied in 1.7(a) (2) is "impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities."(fn47) This danger is most palpable when the lawyer's personal interest intervenes. In an opinion which discusses a lawyer involved in a commercial transaction other than the practice of law, the Committee on Professional Ethics recognized that conflicting responsibilities may cause the lawyer to be "trapped between shifting planes of loyalty to a client, loyalty to a [business] customer and [her] own pecuniary interest in continued income from both [her] law practice and [her]...business."(fn48) Moreover, Connecticut courts have consistently ruled against lawyers who violated Rule 1.7(a) (2) when their own self-interest was involved. In two separate decisions, the court disqualified one attorney when he represented clients against a defendant the attorney was suing on his own behalf in a separate action for legal fees(fn49) and another attorney when she represented defendants in a case in which she was a co-defendant.(fn50) In a business transaction decision, the superior court sustained a reprimand based partially upon an attorney's ownership interest in a mortgage company which took a second mortgage on his client's property to secure his legal fees.(fn51) Although three ethics opinions(fn52 )opined that it was ethically permissible for attorneys to receive commercial referral fees in matters involving clients, and another that it was ethically permissible for an attorney to become town attorney even though he owned an interest in undeveloped land that would likely come before the town for zoning approval,(fn53) each opinion stressed full compliance with all the mandates of the predecessors of Rule 1.7(a) (2) and 1.7(b). These opinions warned that certain 1.7(a) (2) conflicts could not be presented to the client for waiver unless the lawyer reasonably believed, e.g. objectively and subjectively, that the representation would not be adversely affected.(fn54) For example, in Informal Opinion 99-33, the town attorney/ zoning opinion, the committee suggested that the lawyer should abstain from any "involvement with land use matters that might affect his investment."(fn55)

Braunstein v. Statewide Grievance Committee, supra contains a relevant discussion of a client/client 1.7(a) (2) business transaction conflict and the difficulties of providing disclosure necessary for informed consent. In this case, the court found that the attorney represented both a limited partnership and its individual general partner.(fn56) Although not identical, this situation is analogous to that which may occur when the attorney begins by representing one or more principals of a start-up, proceeds to represent the new entity, and then accepts client equity for pay. In Braunstein, the limited partnership objected to both the dual representation and to encumbering its property with a second mortgage to secure the attorney's fee.(fn57) Even though the attorney advised the general partner to seek independent counsel, and even though the general partner apparently forwarded mortgage documents to independent counsel, the court found both a conflict in the multiple representation, and also that the attempted disclosure fell far short of the standard for informed consent needed for this situation.(fn58) Such disclosure requires "more than the fact that [the attorney] is undertaking to represent more than one client.
Full disclosure requires the attorney to explain to the client in detail the risks and foreseeable pitfalls that may arise in the course of the transaction so that the client can understand the reasons why it may be desirable for him or her to have independent counsel, and must include "an explanation of the implications of the common representation and the advantages and risks involved." (fn59)

Connecticut ethics opinions identified other potential problems under 1.7(a) (2) or 1.7(b) for lawyers accepting client equity. Several opinions found that a lawyer's service on an entity's board, an analogous situation to a lawyer owning a significant share of entity equity because both involve decision-making control, created a 1.7(a) (2) conflict when existing clients may be adverse to the entity. (fn60) One of these opinions also highlighted that a businessman/lawyer must necessarily "establish and maintain a clear division between the business and the law practice." (fn61) Such a division must similarly be maintained for the equity-holding lawyer who serves as both businessman and legal advisor. Another opinion pointed out that under Rule 1.10, the conflict in a business transaction matter may apply vicariously to other members of the firm. (fn61) One opinion commented that it may be quite difficult to anticipate all the 1.7(a) (2) conflicts which may arise: "the committee cannot answer the critical questions of whether conflicts are likely to emerge, and whether particular conflicts would materially limit the lawyer's services to [the client]. The committee cannot anticipate the variety of circumstances that the [attorney] may encounter." (fn63) The problem of anticipating issues that must be disclosed for purposes of informed consent under 1.7(a) (2) not only pertains to disclosure when the client equity is accepted, but continues as long as the attorney represents the client and holds the equity. When dealing with an entity client, the lawyer must remember that Rule 1.13 requires that the lawyer receive the consent from the appropriate authority. (fn64) Finally, the requirement of abstaining or withdrawing from representation under 1.7(a) (2) identified in 9933 is exacerbated by the fact that Rule 1.16 requires that withdrawal be accomplished "without material adverse effect on the interests of your clients." (fn65)

In sum, Connecticut law would be concerned, when a lawyer takes a stake in a client, about the lawyer's other interests creating 1.7(a) (2) conflicts, about whether such conflicts would be waivable, about the difficulty of obtaining informed consent if such conflicts could be waived, about the necessity of abstaining or withdrawing from representation and about vicarious disqualification of partners.

**Connecticut's Take on Rule 2.1**

There is no doubt that in the context of business transactions with a client, Connecticut requires an attorney to exercise independent professional judgment and render candid advice, as required by Rule 2.1. In fact, one informal opinion dealing with an attorney receiving a referral fee from a third party involving a client indicates that "it is the independent professional judgment of the attorney that must not be compromised" and that "a client is entitled to straightforward advice expressing the lawyer's honest assessment." (fn66)

**Worst Case Scenarios under Connecticut Law**
As noted above, there are many dangers that a lawyer should consider when the client offers to pay for legal services with equity. These include ethical conflicts that may result in the necessity to withdraw from the representation, in grievance proceedings and possible penalties, or in attempts by clients to exploit the Rules of Professional Conduct to deny the attorney her fee. Two noteworthy and egregious cases, however, demonstrate that even more draconian remedies may await attorneys who violate common law or ethical standards while accepting client equity for pay.

The better known of these is the constellation of Colonial Realty cases ("Colonial Realty"). Colonial Realty involved Ponzi schemes undertaken on a large scale by partnerships engaged in real estate syndications(fn67) and reflects the fact that, when claimants cannot receive just compensation from those who have truly harmed them, they often seek to reach into the perceived deep pockets of professional advisors, including attorneys. As a result of being involved in private placement memoranda, law firms representing the partnership were sued in a securities class action by investors alleging violations of the 1934 Securities Act and the Connecticut Uniform Securities Act, as well as common law fraud, negligent misrepresentation and breach of fiduciary duty(fn68) and by the trustee in bankruptcy for fraud, professional malpractice, breach of contract, and breach of fiduciary duties.(fn69) The Second Circuit Court of Appeals recognized that claimants can sue the attorneys of a third party for causes of action such as these when the claimants' reliance was foreseeable, even absent strict privity.(fn70) These kinds of causes of action contain the potential for penal, punitive or multiple damages, as well as the peril of not being covered by liability insurance. It doesn't take much imagination to envision how damning such claims could be if the attorney were not merely a scrivener, editor, or advisor, but also a significant stakeholder in the offending enterprise.

The lesser known of these is a modern-day, Nutmeg twist on "King Lear," in which a family attorney took advantage of his father's trust to attempt to separate his siblings from their intended inheritance. Although the facts are so outrageous as to be almost unhelpful, Giuletti v. Giuletti(fn71) does present a true "attorney-as-stakeholder" scenario in which the attorney is both legal counselor to and a shareholder of a closely-held family corporation. In order to aggrandize property to himself and sometimes to an allied brother, the attorney imposed conditions on several grants of property to siblings which were not required by the his client/donor/father, while simultaneously telling his siblings that they were, and telling his father that the siblings did not accept the father's conditions.(fn72) The court found that the defendant violated Rules 1.7 and 1.8 and found him liable for, among other things, usurpation of corporate opportunity, fraud and legal malpractice.(fn73) Bearing in mind that egregious facts do indeed make bad law and that the facts of this case are highly egregious,(fn74) the remedies imposed in this case set forth the outer limits of disaster for attorneys who accept client equity for payment. The court reformed both real property interests and assignments of related stock, voided an agreement drafted by the attorney, effected a partition of real property, imposed a constructive trust upon the interests of the attorney in real property, and removed the attorney as a director of the corporation.

Summary
Connecticut lawyers contemplating accepting an equity stake from a client as pay should consider that while at least one court has cited Professors Hazard and Hodes for the proposition that there is nothing inherently unethical about accepting client property as payment, Connecticut has traditionally upheld a presumption against lawyer-client business transactions. Not only will Connecticut factfinders likely require strict compliance with Rules 1.8(a) (1)-(3), but also with subsection (4), which mandates that a lawyer must clearly differentiate between strictly business and legal advice. Moreover, Connecticut will likely scrutinize, under Rule 1.7(a) (2), whether a lawyer's personal interest may materially limit the representation, whether the conflict is waivable, and, if so, whether appropriate disclosure has been made to secure informed consent, which must be secured from the appropriate authority within the entity. Even with informed consent, the lawyer may be forced to withdraw from the representation or abstain from performing particular legal tasks if a new conflict emerges.

Footnotes:

1. Commentary, Rule 1.5, Conn. RPC.
2. Commentary, Rule 1.8, Conn. RPC.
3. Scope, Conn. RPC.
4. Commentary, Rule 1.8, Conn. RPC.
5. Commentary, Rule 1.7, Conn. RPC.
6. Id.
8. Informal Opinion 07-09.
10. Id., at 1, 4-5.
11. Id., at pp. 3-5.
12. Id., at 4.
13. Id., at pp. 4-5, "5% interest in the [start-up] corporation in lieu of a fee."
15. *Id.*, at 4-5.

16. In *Statewide Grievance Committee v. Schweitzer*, 03-CBAR-2140, Judicial District of Hartford at Hartford, August 21, 2003, p. 1 (Accessed on May 11, 2009), a loan to an attorney by a client resulted in a three-month suspension because of a violation of 1.8(a) (2) despite testimony by both attorney and client that they were friends; in *Statewide Grievance Committee v. Rozbicki*, 219 Conn. 473, 477, 595 A. 2d 819 (1991), a seven-year "social and professional relationship" did not spare the attorney suspension under the analogous section DR 5-104(A) of the Code of Professional Responsibility.


19. *Hall v. Statewide Grievance Committee*, 24 Conn. L. Rptr. 482 (J.D. of New Britain at New Britain, 4/14/99) (lawyer who solicited investment money from client for his business reprimanded despite holding in related civil case finding that lawyer not acting as attorney in solicitation).


25. 20 Conn. L. Rptr. 145 (J.D. of Rockville, 7/23/97).


27. *Id.*, at p. 1.

28. *Id.*, at pp 1, 5.

29. *Id.*, at p. 1.
30. Id., at 3.

31. Id., at 4.

32. Id., at 6.

33. Id., at 7.

34. Id., at 9, fn. 6. This limited citation may have resulted because the defendant only claimed a violation of subsection (a) (1), see p.3

35. Twachtman, supra.

36. Id.

37. Id.

38. Id.

39. Id.

40. Id.

41. Informal Opinion 99-24. Rule 1.5(b) requires the lawyer, unless she is representing a regularly represented client, to communicate in writing to the client the scope of representation, as well as the basis or rate of the fee and the expenses which the client shall absorb. Rule 1.5(c) requires a contingent fee agreement to be in writing and signed by the client.


43. Informal Opinion 07-09.

44. Kolb, supra, at 5.

45. Under 1.7(a) (2), a lawyer shall not represent a client if there is a "significant risk" that the representation of said client "will be materially limited" by the lawyer's "responsibilities to another client, a former client or a third person" or by the lawyer's personal interest. Rule 1.7(a) (2), Conn. RPC.

46. Rule 1.7(b), Conn. RPC.

47. Informal Opinion 97-06, citing Informal Opinion 90-16.

49. *The New Original Dave's Bagel, Inc. v. Small Business Institute, Inc.*, 7 Conn. L. Rptr. 174 (Judicial District of New Britain at New Britain 7/24/92).


52. Informal Opinions 94-25, 97-16 and 97-36.


56. Braunstein, supra, at 5.

57. *Id.*, at 6-7.

58. *Id.*, at 7.


64. *Id.*, Braunstein, supra, at 5.


68. CLPL.

70. Id., at 6-7.

71. 99-CBAR-1051, Judicial District of New Britain at New Britain (December 15, 1999)
(Accessed on May 11, 2009)

72. Id.

73. Id, at 6-15.

74. The court stated that the attorney "not only violated the rules [of professional conduct], he did so form an apparent pathological need to control his family while furthering his own interests." Id., at 10.