

## APPENDIX F

## UNITED STATES COURT OF FEDERAL CLAIMS RULES OF DISCIPLINARY ENFORCEMENT

The United States Court of Federal Claims, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding pursuant to RCFC 81(b)(5), promulgates the following Rules of Disciplinary Enforcement superseding all of its other rules pertaining to disciplinary enforcement heretofore promulgated.

**Rule I. Attorneys Convicted of Crimes**

**A.** Upon the filing with the court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, the court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice so to do.

**B.** The term serious crime shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime.

**C.** A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

**D.** Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the court shall, in addition to suspending that attorney in accordance with the provisions of this Appendix, refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

**E.** Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no reference with respect to convictions for minor offenses.

**F.** An attorney suspended under the provisions of this Appendix will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

**Rule II. Discipline Imposed by Other Courts; Disbarment on Consent or Representation in Other Courts**

**A.** Any attorney admitted to practice before the court shall, upon being subjected to public discipline by any other court of the United States or District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the clerk of such action.

**B.** Any attorney admitted to practice before the court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the clerk of such disbarment on consent or resignation.

**C.** Upon the filing of a certified copy of a judgment or order demonstrating that an attorney admitted to practice before the court has been disciplined by another court or upon accepting disbarment on consent or resignation, the court shall forthwith issue a notice directed to the attorney containing:

1. a copy of the judgment or order from the other court or a copy of the communication indicating disbarment on consent or resignation; and
2. an order to show cause directing that the attorney inform the court within 30 days after service of that order upon the attorney, personally or by mail of any claim by the attorney predicated upon the grounds set forth in ¶E. That the imposition of the identical discipline by the court would be unwarranted and the reasons therefor.

**D.** In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in the court shall be deferred until such stay expires.

**E.** Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of ¶C, the court shall impose the identical discipline unless the respondent-attorney demonstrates, or the court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

1. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
2. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject; or