

(vi) The nature and length of the professional relationship with the client;

(vii) The experience, reputation, and ability of the lawyer or lawyers performing the services; and

(viii) Whether the fee is fixed or contingent.

(6) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing in representation.

(7) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (a)(8) of this section or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(8) A lawyer shall not enter into an arrangement for, charge, or collect:

(i) Any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof, or

(ii) A contingent fee for representing an accused in a criminal case.

(9) A division of fee between lawyers who are not in the same firm may be made only if:

(i) The division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;

(ii) The client is advised of and does not object to the participation of all the lawyers involved; and

(iii) The total fee is reasonable.

(b) [Reserved]

§ 776.25 Confidentiality of information.

(a) *Confidentiality of information.* (1) A judge advocate shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (a)(2) and (a)(3) of this section.

(2) A judge advocate shall reveal such information to the extent the judge advocate reasonably believes necessary to prevent the client from committing a criminal act that the judge advocate believes is likely to result in imminent death or substantial bodily harm, or significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(3) A judge advocate may reveal such information to the extent the judge advocate reasonably believes necessary to establish a claim or defense on behalf of the judge advocate in a controversy between the judge advocate and the client, to establish a defense to a criminal charge or civil claim against the judge advocate based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the judge advocate's representation of the client.

(b) [Reserved]

§ 776.26 Conflict of interests: General rule.

(a) *Conflict of Interests: General rule.*

(1) A judge advocate shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(i) The judge advocate reasonably believes the representation will not adversely affect the relationship with the other client; and

(ii) Each client consents after consultation.

(2) A judge advocate shall not represent a client if the representation of that client may be materially limited by the judge advocate's responsibilities to another client or to a third person, or by the judge advocate's own interests, unless:

(i) The judge advocate reasonably believes the representation will not be adversely affected; and,

(ii) The client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

(b) [Reserved]

§ 776.27 Conflict of interests: Prohibited transactions.

(a) *Conflict of interests: Prohibited transactions.* (1) Judge advocates shall strictly adhere to current Department of the Navy Standards of Conduct Regulations and shall not:

(i) Knowingly enter into any business transactions on behalf of, or adverse to, a client's interest which directly or indirectly relate to or result from the attorney-client relationship, or otherwise profit, directly or indirectly, through knowledge acquired during the course of the judge advocate's official duties;

(ii) Accept compensation or gifts in any form from a client or other person or entity, other than the U.S. Government, for the performance of official duties;

(iii) Provide any financial assistance to a client or otherwise serve in a financial or proprietary fiduciary or bailment relationship, unless otherwise specifically authorized by competent authority;

(iv) Negotiate any settlement on behalf of multiple clients in a single matter unless each client provides his or her fully informed consent;

(v) Represent a client whose interests are materially adverse to the interests of a former client, unless the former client consents, or use information from the former representation to the disadvantage of that former client, except as permitted or required under § 776.26 or when the information has become otherwise generally known;

(vi) make any referrals of legal or other business to any non-governmental lawyer or enterprise with whom the judge advocate has any present or expected direct or indirect personal interest; any referrals must be made strictly without regard to personal interests of the judge advocate, and special care shall be taken not to give preferential treatment to Reserve

judge advocates or other government attorneys in their private capacities;

(vii) Make or negotiate an agreement giving the judge advocate literary or media rights for a portrayal or account based in substantial part on information relating to representation of a client; or,

(viii) Represent a client in a matter directly adverse to a person who the judge advocate knows is represented by another lawyer who is related as parent, child, sibling or spouse to the judge advocate, except upon consent by the client after consultation regarding the relationship.

(2) [Reserved]

(b) [Reserved]

§ 776.28 Conflict of interests: Former client.

(a) *Conflict of interests: Former client.*

(1) A judge advocate who has represented a client in a matter shall not thereafter:

(i) Represent another person in the same or a substantially related matter in which the person's interests are materially adverse to the interests of the former client, unless the former client consents after consultation; or,

(ii) Use information relating to the representation to the disadvantage of the former client or to the judge advocate's own advantage, except as § 776.25 would permit with respect to a client or when the information has become generally known.

(2) [Reserved]

(b) [Reserved]

§ 776.29 Imputed disqualification: General rule.

Judge advocates working in the same military law office are not automatically disqualified from representing a client because any of them practicing alone would be prohibited from doing so by § 776.26, § 776.27, 776.28, or § 776.37.

§ 776.30 Successive government and private employment.

(a) *Successive government and private employment.* (1) Except as the law or regulations may otherwise expressly permit, a former judge advocate shall not represent a private client in connection with a matter in which the judge advocate participated personally