

(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

Department of the Navy, DoD

§ 776.32

and substantially as a public officer or employee, unless the appropriate government agency consents after consultation. If a former judge advocate in a firm with which that judge advocate is associated knows that the firm or anyone associated with the firm is undertaking or continuing representation in such a matter:

(i) The disqualified former judge advocate must ensure that he or she is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom; and,

(ii) Must provide written notice promptly to the appropriate government agency to enable it to ascertain compliance with the provisions of this section.

(2) Except as the law or regulations may otherwise expressly permit, a former judge advocate who has information known to be confidential government information about a person which was acquired when the former judge advocate was a public officer may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. The former judge advocate may continue association with the firm only if the disqualified judge advocate is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom.

(3) Except as the law or regulations may otherwise expressly permit, a judge advocate shall not:

(i) Participate in a matter in which the judge advocate participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the judge advocate's stead in the matter; or,

(ii) Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the judge advocate is participating personally and substantially.

(4) As used in this section, the term "matter" includes:

(i) Any judicial or other proceeding, application, request for a ruling or

other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and,

(ii) Any other matter covered by the conflict of interest rules of the appropriate government agency.

(5) As used in this section, the term "confidential governmental information" means information which has been obtained under governmental authority and which, at the time this section is applied, the government is prohibited by law or regulations from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

(b) [Reserved]

§ 776.31 Former judge or arbitrator.

(a) Former judge or arbitrator. (1) Except as stated in paragraph (a)(3) of this section, a judge advocate shall not represent anyone in connection with a matter in which the judge advocate participated personally and substantially as a judge or other adjudicative officer, arbitrator, or law clerk to such a person, unless all parties to the proceeding consent after disclosure.

(2) A judge advocate shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the judge advocate is participating personally and substantially as a judge or other adjudicative officer. A judge advocate serving as law clerk to a judge, other adjudicative officer, or arbitrator may negotiate for employment with a party or attorney involved in a matter in which the clerk is participating personally and substantially, but only after the judge advocate has notified the judge, other adjudicative officer, or arbitrator.

(3) An arbitrator selected as a partisan of a party in a multi-member arbitration panel is not prohibited from subsequently representing that party.

(b) [Reserved]

§ 776.32 Department of the Navy as client.

(a) Department of the Navy as client. (1) Except when representing an individual client pursuant to paragraph (a)(6) of this section, a judge advocate