"[f]or the law is the lasting and secure guide of human conduct; it is not something to be manipulated, twisted or set side for goals, however high or desirable they may seem."[228]

228. Narvasa, *supra* note 204, at 67.

The Commercial Ends That Motivate the Legal Profession: An Alternative Model to Understanding the Rules that Govern the Practice of Law

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"You cannot win a case unless you have a case. The day-long, the life-long struggle in your life will not so much to win cases... as to get cases."

-Vicente J. Francisco[1]

I. INTRODUCTION

The practice of law is governed by a myriad of precepts and regulations: the Code of Professional Responsibility, Rule 139-B of the Revised Rules of

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1. VICENTE J. FRANCISCO, PRACTICE OF LAW AND ADVICE TO YOUNG LAWYERS 41 (1973) [hereinafter FRANCISCO, ADVICE].

Court on Disbarment and Discipline of Attorneys, judicial decisions, statutes, the Constitution, treatises and publications.[2] These regulations chart a "moral science" which embody the duties which a client owes to the court, to his client, to his colleagues in the profession, and to the public.[3]

These admonitions that govern lawyers in the practice of law can be reduced to two proscriptions. The first is the proscription against the notion that the lawyer owes his foremost duty to the client. Instead, the lawyer's primary duty is the administration of justice. This proscription encompasses the lawyer's duty to uphold the laws and to promote respect for the law, to participate in the improvement of the legal system, and his duty of candor, fairness and good faith to the court. The second proscription is against the treatment of practice as a money-making trade for pecuniary rewards. This proscription encompasses the lawyer's duty to charge only fair and reasonable fees,[4] his duty not to refuse his services to the needy,[5] and his duty to refrain from advertising his talents as a merchant would his wares.[6]

A precise definition of the practice of law is elusive. The Supreme Court has observed that trying to define the practice of law by looking into traditional areas of law practice is essentially unhelpful because lawyers perform almost every function known in the commercial and governmental realm.[7] But despite this difficulty, the Supreme Court has not been remiss in admonishing lawyers, time and again, that the practice of law is a branch of the administration of justice and not a mere moneymaking trade — that the law is a profession and not a trade.[8]

Scholars and jurists on whose words the legal profession has been shaped have virtually created an entire chasm between the definition of a profession and commerce, and have placed the proper treatment of the practice of law in the world of the profession. Retired Chief Justice and former Dean of the College of Law of the University of the Philippines, George Malcolm, elevates the practice of law beyond a profession, as a branch of the administration of justice. To the criticism that there are too many lawyers in the Philippines, his response is that the statement is not correct, for the call for a finer quality of

2. ERNESTO L. PINEDA, LEGAL AND JUDICIAL ETHICS 2 (1999 ed.).

3. GEORGE MALCOLM, LEGAL AND JUDICIAL ETHICS 8 (1949).

4. CODE OF PROFESSIONAL RESPONSIBILITY, Canon 20 (1988).

5. *Id.* Canon 14.

6. *In re* Tagorda, 53 Phil. 37 (1929).

7. Cayetano v. Monsod, 201 SCRA 210 (1991).

8. Jayme v. Bualan, 58 Phil. 422 (1933); *In re* Tagorda, 53 Phil. 37 (1929); Director of Religious Affairs v. Bayot, 74 PHIL 579 (1944); Canlas v. Court of Appeals, 164 SCRA 150 (1988), Ulep v. The Legal Clinic, 223 SCRA 378 (1993).

professional men and women who possess a general cultural and legal education, who have a sincere understanding of the high requirements of the legal profession, and who will take a leading and progressive part in good government, will never cease.[9]

Professor Gaudencio Garcia, a former COMELEC Commissioner and Governor, in a seminal work, defines profession as a "calling in life" which would require special training and ability contemplating public service, and subordinates pecuniary returns to efficient service. A business or trade on the other hand, is any occupation in which a person engages for the purpose of earning money, where the rendering of service is of secondary importance. He observes:

> In [the] Law Profession, pecuniary returns are kept in the background, and are neither a general standard of professional success, nor a daily measure of service, as in the transactions of business and in the markets of goods. In business, high-minded men may possess the "ideal of service," but it rarely controls the "ideal of profits." [W]hereas, in [the] Law Profession the ideal of service exists from the very threshold, materializes in an obligation voluntarily assumed, and is attested by an oath of office.[10]

But the rules govern a practice which has grown by leaps and bounds and which has reached heights that were inconceivable to its forefathers. The fact is that the practice of law encompasses almost all aspects of political and economic society. Individuals learned in the law are powerful persons, if power is to be measured by the financial resources and the political power that its practitioners wield. In the political arena, the Philippine government is primarily comprised of lawyers, and positions of leadership in the legislative, executive and judicial branches of the government are in the hands of men and women of the legal profession.[11] In corporate practice, the business lawyer is "the planner, the diagnostician and the trial lawyer, the surgeon."[12] With so much of the political and economic realm being brokered by lawyers who are practicing a profession rather than a trade, the Code of Professional Responsibility would have long fallen to disuse and obsolescence if indeed it merely regulated a profession and not a trade.

This essay suggests an alternative paradigm with which to view the rules that govern the practice of law. By engaging in a historical investigation of the practice of law and by a comparison of the rules that govern the practice of

9. MALCOLM, *supra* note 3, at 4-5.

10. GAUDENCIO GARCIA, LEGAL AND JUDICIAL ETHICS — PRINCIPLES AND PROBLEMS 2-3 (1953).

11. JOVITO R. SALONGA, The Ministry of Law *in* THE INTANGIBLES THAT MAKE A NATION GREAT 198 (2003).

12. Cayetano v. Monsod, 201 SCRA 210 (1991) (citing *Corporate Finance Law*, BUSINESS STAR, Jan. 11, 1989, at 4.).

law with various pieces of legislation in Commercial Law, Political Law and Civil Law, one can observe that the philosophical underpinnings of the rules that govern the practice of law is not so much with the end of regulating the practice of law as a profession, but acknowledges that the practice of law as something more than merely a profession.

II. A History of the Practice of Law

A historical survey of how the practice of law, as it is known in contemporary times, came about, will reveal the basis of the high regard by which its practitioners would hold it. But a comparison with recent trends will reveal how much the perspectives have changed.

At the origins of civilization, about 3000 B.C., kingship emerged in Mesopotamia. Kingship was new during this time. The earliest kings served as war leaders, but also performed religious functions. They were viewed as guarantors of the welfare of the city and its population.[13] In these primitive societies, justice was administered personally by the king.[14]

As civilization grew, the relations and transactions among people increased and became more varied and complex. It became necessary to establish a system of rules in order to stabilize the system of settling disputes. But the analysis that is important is how these rules were used by individuals in order to obtain arbitrate conflicting claims. In Greece, Rome, England, and other various countries, conflicting parties were at one time obliged to conduct their cases in person.[15]

In the archaic period of Rome, the ancient Roman State was an aristocratic community, and the knowledge of the law was confined to this aristocracy, particularly to the *sacerdotes publici*, or priests who were charged with the knowledge and conduct of the rites of the state religion.[16] The courts were not open to the public, and the parties themselves had to perform both citation and execution, and the legal complexities were set in motion not by the court but by the parties.[17] In early Athens, no one was allowed to appear as an advocate unless he himself had some interest therein. If one could not advocate his cause because of sickness or some other cause, a relative or friend was

13. Stanley Chodorow, et al., The Mainstream of Civilization 12-13 (6th ed. 1969).
14. Garcia, *supra* note 10, at 9.
15. Malcolm, *supra* note 3, at 4.
16. Vicente J. Francisco, Roman Law 14-15 (1950) [hereinafter Francisco, Roman Law].
17. *Id.* at 79.

allowed to appear and act for him.[18] Under Anglo-Norman law, questions were decided in a trial by battle.[19]

Eventually, parties were allowed to secure advocates to attend to their causes.[20] Rules became more numerous and complicated and less easily understood by the litigants who pleaded their own causes, and there arose a class of persons who devoted their time to the study of law. This class of persons was made up of priests, so the law profession developed as part of a religious hierarchy and possessed a distinct theological and moral caste.[21]

The task of advocating the causes for others became part of the task of the aristocrats. At around 594 B.C., advocates and pleaders were permitted to appear for others in the courts in Greece.[22] In ancient Rome, a *patronus*, or a patrician who had some dependents to protect, had the duty to represent them in court and to conduct their lawsuits for them gratuitously. In return, the dependents performed certain duties for the benefit of the *patronus*.[23]

When the system of the *patronus* fell into disuse, anyone needing a counsel in court was allowed to obtain or consult whomsoever he wished, paying a fee or honorarium. This person who advocated his cause did not have to be a professional advocate, and he continued to be called by the ancient name of *patronus*. A new class of legal advisers became known as *jurisconsults*. Later, the term "*advocati*" designated one acting in court for another. The profession of advocacy was organized and regulated, and it was during this time when legal study became required for admission to the Roman Bar.[24] Legal textbooks were produced for students and systematic professional teaching was given.[25]

Although the gratuitous rendering of services by the *patronus* was obsolete by this time, the pursuit of law was still treated as a matter of honor, and the fee given was considered to be an honorary nature. During a certain period, laws were passed prohibiting anyone advocating the cause of another in court from receiving a fee or gratuity. Later, a maximum fee was imposed. Any

18. Garcia, *supra* note 10, at 10.
19. Chodorow, *supra* note 13, at 309.
20. Malcolm, *supra* note 3, at 4.
21. Garcia, *supra* note 10, at 10 (citing Scott's Evolution of Law, 116 [3d ed.]).
22. *Id.*
23. *Id.* at 11-12.
24. *Id.* at 11.
25. Francisco Roman Law, *supra* note 16, at 42-43.

advocate who entered into an agreement for payment of fees beyond this maximum was disbarred.[26]

The rule that the services of lawyers is gratuitous was also established law at one time in England. But the principle that the profession of the law was merely honorary was not adopted in the United States, and remuneration was considered a proper incident in the relation of lawyer and client.[27]

In the Philippines, under Spanish rule, the legal profession was instituted in 1680 by the Laws of the Indies. It was regulated successively by royal decrees, orders, ordinances, and laws.[28] Admission to the bar was conditioned on the completion of the law course and a period of apprenticeship with a lawyer.[29] Under American Rule, the practice of law was regulated by the Code of Civil Procedure. Admission to the bar became conditioned on passing the examinations given by the Supreme Court.[30] Since American law figured greatly in the drafting of Philippine laws, the practice of law was similarly influenced by the American model.

This survey reveals the historical basis for the manner by which practice for the sake of profit is scoffed at. The very first class of persons who were acknowledged as knowledgeable in the law were priests and persons of religion. Old religious belief has considered matters of the faith to have greater bearing than affairs of the secular. It is only fitting that the forefathers of the practice of law would consider the charging of fees and the advocacy of a man's cause to be anathema, because matters of faith are beyond workaday world concerns, and if the law is the word of God, then no man's cause, however meritorious, could ever be superior to the law. It is interesting to note that even fairly recent scholars have considered the law profession as a priesthood of justice, and the lawyer, the minister or priest.[31]

When knowledge and expertise in the law became something possessed by the rulers and exercised in favor of their constituents, it was likewise unthinkable to charge fees for the services that such ruler would render.

26. GARCIA, *supra* note 10, at 12.

27. MALCOLM, *supra* note 3, at 49.

28. *Id.*

29. Dean Andres Bautista, Address at the *LEX: Legal Ethics in Extraordinary Times*, a symposium hosted by the *Ateneo Law* Journal held at the Ateneo de Manila University School of Law on Feb. 20, 2004.

30. GARCIA, *supra* note 10, at 14. Note however that those admitted to practice under the Spanish regime or in the United States were admitted to practice in the Philippines if they remained and continued to reside in the Philippines. *See Id.* at 13. *See* Act. 190, § 13 (1); *In re* Bosque, 1 Phil. 88 (1902).

31. GARCIA, *supra* note 10, at 20. Professor Garcia's treatise on ethics was published in 1953.

Vestiges of the supposedly noble lineage of the practice of law are still apparent in fairly recent writings. The nature of the profession of law has been called "the noblest and most beneficial to mankind."[32]

But the priest and the ruler who practiced the law were not primarily men who gave their lives to the practice of law. For them, it was a diversion from their regular duties. The priest lead the community in the worship of God, the ruler busied himself with the concerns of warfare, taxation, and economy. Both had no need of any remuneration for the services that the practice of law could bring. It was not until a class of people gave up a significant portion of their lives to learn and practice the law, that remuneration for services became imperative. Still, remuneration for services is still regarded with the ancient reluctance by way of life of a genus long extinct, if not in actual practice, then at least in the words of the Supreme Court and scholars. But is this an ideal which lawyers now must aspire for? Alas, are fidelity to the client's cause and compensation for services evils which must be eradicated?

III. THE CLIENT AS THE LAWYER'S PRIMARY CONSTITUENT

The Code of Professional Responsibility is divided into four chapters, which treats the lawyers' duties to four sectors: the society, the legal profession, the courts, and his client. The manner by which the Code was crafted virtually creates a hierarchy of the accountabilities of a lawyer. But these duties can be grouped into two duties which encompass all the duties of the lawyer. These are the two proscriptions: first, against the blind advocacy of the client's cause, and second, against the practice of law for pecuniary gains. By analyzing how the act of advocating the cause for another has arose and evolved since the inception of law, the investigation has thus far revealed the ancient basis of the treatment of the practice of law as a profession, and the indignant treatment that practice for pecuniary rewards has been subjected to, at least in rhetoric. But to what extent is this treatment carried out in the rules that govern the practice of law?

A. Proscription Against The Blind Advocacy of the Client's Cause

Time and again, the Supreme Court has censured lawyers for their use of procedural techniques to delay a cause, to obtain what is unjust, or to evade what is proper. American Senator Elihu Root had said: "About half the practice of a decent lawyer consists in telling would-be clients that they are damned

32. *Id.*

fools and should stop."[33] The provisions on the Code of Professional Responsibility regarding the lawyer's duties to his clients are in the fourth, and last, chapter. If the placement of the lawyer's duties to the clients is an indication of the hierarchy of the lawyer's duties, then the lawyer's duties towards his client occupies the lowest rung in the ladder.

But the lawyer is inextricably connected to the client that he serves. Whether the lawyer appears for a client in court or brokers a corporate transaction, he acts in representation for another, who does not have the mastery of the laws that he has. The definition of the word "attorney" is inseparable from concept of representation, to wit, one who is designated to transact business for another.[34] The duties of the lawyer to the society, to the legal profession, and to the courts, can be seen rather as a means of tempering the ardency that the lawyers can display in the pursuit of the client's cause.

The duties imposed by the Code on the lawyer with regard to his client can be summarized to the following enumeration:

1. to observe candor, fairness and loyalty in all his dealings and transactions with his clients;[35]
2. to avoid a conflict of interest in representing his client;[36]
3. To keep in privilege the matters disclosed to him by a prospective client;[37]
4. To hold in trust all moneys and properties of his client that may come into his possession;[38]

33. SOL M. LINOWITZ, THE BETRAYED PROFESSION: LAWYERING AT THE END OF THE TWENTIETH CENTURY 4 (1996).

34. BLACK'S LAW DICTIONARY 124 (7th ed. 1999).

35. CODE OF PROFESSIONAL RESPONSIBILITY, Canon 15. This duty includes the call on the lawyer to neither overstate nor understate the prospects of the case (Rule 15.05), not state or imply that he is able to influence any public official, tribunal or legislative body (Rule 15.06).

36. *Id.* Rule 15.01 & 15.03. This includes the duty of a lawyer who is engaged in another profession or occupation concurrently with the practice of law shall make clear to his client whether he is acting as a lawyer or in another capacity (Rule 15.08).

37. *Id.* Rule 15.01. This obligation extends to even after the attorney-client relation is terminated (Canon 21).

38. *Id.* Canon 16. This includes the lawyer's duty to account for all money or property collected or received for or from the client (Rule 16.01), his duty to keep the funds of each client separate and apart from his own and those of others kept by him (Rule 16.02), and his duty to deliver the funds and property of his client when due or upon demand (Rule 16.03), and the prohibition against accepting, without the full knowledge and consent of the client, accept any fee or reward related to his professional employment from anyone other than the client (Rule 20.03).

5. To serve his client with competence and diligence.[39]
6. To keep the client informed of the status of his case;[40]

This enumeration evokes the three similar duties of the corporate directors to the corporation: the duties of obedience, diligence and loyalty.[41] Although the corporate stockholder invests capital into the enterprise, allowing it pursue the business undertakings, the Corporation Code divorces the control over properties of the corporation and the conduct of the business from the stockholders, and vests it with the Board of Directors. The directors are guided by the duty of obedience which requires that they keep within the primary and secondary purposes of the corporation, as provided in the articles of incorporation, powers of the corporation,[42] the duty of diligence which requires directors to discharge the duties of their office in good faith and with the diligent care and skill which ordinary prudent men would exercise under similar circumstances in like positions,[43] and the duty of loyalty which prohibits the director from acquiring any personal or pecuniary interest in conflict with their duty as directors.[44]

The duties of the lawyers to his clients may be similarly divided into these three categories. A lawyer shall act only within his authority, and there are certain instances when he is required to have written authority in order to act, such as when he acts as mediator, conciliator or arbitrator in settling disputes.[45] When he acts, he must act with diligence and competence. So also, he must firmly separate the client's interests from his own.

Under the corporate set-up, the stockholders relinquish their personality and control over corporate affairs, save in the instances when an act would

39. *Id.* Canon 18. This includes the lawyer's fidelity to the cause of his client (Canon 17).

40. *Id.* Rule 18.04

41. CESAR L. VILLANUEVA, CORPORATE LAW 322 (2001); JOVITO SALONGA, PHILIPPINE LAW ON PRIVATE CORPORATIONS 211 (1958) (citing Wormser, Frankenstein, Inc., 125-36 and 3 Fletcher, §. 990; ROBERT CLARK, CORPORATE LAW 123 (1986)).

42. Lopez Realty, Inc. v. Fontecha, 247 SCRA 183 (1995).

43. CORPORATION CODE, § 31; Steinberg v. Velasco, 52 Phil. 953 (1929).

44. CORPORATION CODE, § 31-34.

45. CODE OF PROFESSIONAL RESPONSIBILITY, Rule 15.04.

affect the very core of the corporate existence, such as in mergers and consolidation, the amendment of corporate articles or by-laws. In case of conflict between the acts of the board of directors and the stockholders, the Supreme Court has upheld the decision of the board, stating: "[W]here a meeting of the stockholders is called for the purpose of passing on the propriety of making a corporate contract, its resolutions are at most advisory and not in any wise binding on the board."[46]

To the same extent, procedural rules have stripped the parties of personality to the case. In the service of pleadings, judgments, and other papers, a party who has appeared by counsel shall be served papers on his counsel.[47] Service to the party himself is the exception rather than the general rule. The negligent acts as well as the mistakes of a lawyer are imputable to his client, and the client cannot obtain relief on such grounds.[48]

If indeed lawyers are dangerous because their mastery of the law places them in the position to do great evil, why does the law place so much power in the office of the lawyer? Once again, the analysis must obtain its bearings from Commercial Law to proceed. In the corporate setting, control is relinquished not because of disability, but out of convenience and utility. This makes possible a more stable and efficient system of governance and of dealing with third parties, such that shareholders are bound by the management decisions and transactions of the board of directors of the corporation whether they like it or not.[49] In the same way, the clients who obtain the services of lawyers do so because they do not possess knowledge to represent their causes. And in order for the court's pronouncements on these causes to have any measure at all of stability, it is necessary to bind the clients to the efforts of their attorneys.

Thus far, the analysis has revealed that despite the rhetoric which has not been waned, which has repeatedly pounded on the fact that lawyers owe their first duty to society and the rule of law, the manner by which his relationship with client is regulate betrays a truth that has never really been hidden. One of the means by which the lawyer can truly serve society, is by ardently advocating the cause of his client.

Aside from enumerating the duties of the lawyer to the client, the Code of Professional Responsibility likewise enumerates certain acts which are

46. Ramirez v. Orientalist, 38 Phil. 634 (1918).

47. RULES OF COURT, Rule 13, § 2.

48. 1 JOSE Y. FERIA & MARIA CONCEPCION S. NOCHE, CIVIL PROCEDURE ANNOTATED 630-31 (2001 ed.) (citing People v. Manzanilla, 43 Phil. 167 (1922)).

49. VILLANUEVA, *supra* note 42, at 23.

prohibited of a lawyer in his relations with his client. Thus, a lawyer is prohibited from:

a) Borrowing money from his client, unless the client's interest are fully protected by the nature of the case or by independent advice;[50]

b) Lending money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client;[51]

c) Withdrawing his services except for good cause and upon notice appropriate in the circumstances.[52]

The public policy considerations behind the prohibition against the lawyer from borrowing money from or lending money to his client are easily understood. Due to the trust that the client has placed on the lawyer, the client will very likely accede to whatever concessions might be demanded by the lawyer in the transaction, however unfair they might be. These prohibitions fall under the lawyer's duty to separate his pecuniary interest from the property that he is handling under litigation. The commercial end of the prohibition against the lawyer from withdrawing his services is not as imminent.

At the outset, it may appear the prohibition against the lawyer from withdrawing his services arbitrarily falls under his duty to represent his client's cause with diligence. The Code provides the instances where a lawyer may withdraw his services. Aside from instances arising from physical incapacity,[53] breach of the contractual agreement,[54] or legal incapacity,[55] and these are limited to the following instances:

a) When the client pursues an illegal or immoral course of conduct in connection with the matter he is handling;

b) When the client insists that the lawyer pursue conduct violative of these canons and rules;

c) When his inability to work with co-counsel will not promote the best interest of the client;[56]

50. CODE OF PROFESSIONAL RESPONSIBILITY, Rule 16.04.

51. *Id.*

52. *Id.* Canon 22.

53. *Id.* Rule 22.01 (d).

54. *Id.* Rule 22.01 (e).

55. *Id.* Rule 22.01 (f).

56. *Id.* Rule 22.01.

As an officer of the court, the lawyer has been admonished that his first duty is to the law and to the society, and so when his client proceeds with a course of action that is illegal or immoral, then he may breach the attorney-client privilege,[57] and he may severe his relationship with the erring client. In this duty, has the analysis revealed an area that is motivated purely by society's interest, rather than the client's?

It has been proposed that even in this prohibition, the Code promotes the interest not of society, but of the lawyer. Professor Lester Brickman of the Cardozo School of Law observes that with the law disregarding confidentiality in transactions involving fraud, illegality and immorality, this greatly affects the market value of a lawyer's services in that circumstance:

> The more a client can be assured that his lawyer will not disclose that the lawyer's work was used to accomplish fraud, the more confidently the client can proceed and the greater the potential proceeds of the fraud. The market value of the lawyer's services is thus highest in a 'must not disclose' regime and lowest in a 'must disclose' regime.[58]

Because of the sanctions that the law imposes on the lawyer, he is defensive in taking on clients who are about to commit fraudulent or illegal acts. In answer to the question: "What cases [should a lawyer] accept?" Justice Vicente J. Francisco, in his volume on "Advice to Young Lawyers" intimates that the most difficult cases are: first, the problem of consenting to defend an accused person whom the lawyer knows to be guilty, and second, that of acting as private prosecutor, knowing that the accused is innocent.[59] It is precisely in cases of this nature when the lawyer will not want his services to be as openly available. The Code allows lawyers a means to sidestep these causes by making the services of the lawyer less marketable in these areas. The law would counsel against parties from committing fraudulent and illegal acts with the aid of lawyers, by making destroying the shield of confidence that exists in the attorney-client relationship.

B. Proscription Against The Practice of Law for Pecuniary Gains

Chief Justice Malcolm is almost uncomfortable when he acknowledges that although the law student and the lawyer are constantly admonished to remember that the law is to be pursued for its own sake and not for gain,

57. RICARDO J. FRANCISCO, BASIC EVIDENCE 326 (2d ed. 1999) (citing People v. Alstin, 57 Mich. 69, 23 N.W. 594).

58. Lester Brickman, *"What Drives Legal Ethics?" in* The Federalist Society for Law and Public Policy Studies, *available at* http://www.fed-soc.org/Publications/practicegroupnewsletters/ professionalresponsibility/pp020103.htm (last accessed in Feb. 21, 2004).

59. FRANCISCO, ADVICE, *supra* note 1, at 64.

"[T]he stubborn fact remains that the attorney must live by his profession."[60] The Code of Professional Responsibility stringently regulates the pecuniary gains that the lawyer may gain from his relationship with his client, and imposes several prohibitions which are designed to maintain a certain detachment from matters financial with the practice of law:

a) A lawyer shall charge only fair and reasonable fees;[61]

b) A lawyer shall not attempt to business by competing with other lawyers in terms of fees charged[62]

c) A lawyer shall not, directly or indirectly, encroach upon the professional employment of another lawyer;[63]

d) A lawyer shall make his legal services available in an efficient and convenient manner compatible with the independence, integrity, and effectiveness of the profession;[64]

e) A lawyer shall not pay or give anything of value to representatives of the mass media in anticipation of, or in return for, publicity to attract legal business;[65]

f) In the choice of a firm name, no false, misleading or assumed name shall be used. The continued use of the name of a deceased partner is permissible provided that the firm indicates in all its communications that said partner is deceased;[66]

g) A lawyer shall not refuse his services to the needy.[67]

This section analyzes two areas where the thrust against the practice of law as a profession is most evident, that of the charging of fees, and the marketing of services.

60. MALCOLM, *supra* note 3, at 49.

61. CODE OF PROFESSIONAL RESPONSIBILITY, Canon 20.

62. This pertains to the rule that a lawyer shall not charge rates lower than those customarily prescribed unless the circumstances so warrant (Rule 2.04).

63. CODE OF PROFESSIONAL RESPONSIBILITY, Canon 8, Rule 8.02

64. *Id.* Canon 2.

65. *Id.* Rule 3.04.

66. *Id.* Rule 3.02

67. *Id.* Canon 14. This includes the call on the lawyer who accepts the cause of a person unable to pay his professional fees shall observe the same standard of conduct governing his relations with paying clients (Rule 14.04).

1. Charging of Fees

The relationship between the lawyer and the client is one that is established by contract. The incidents thereof, such as the services to be rendered and the fees to be paid, are found in the contract. As a rule, contracting parties may establish such stipulations in their agreement so long as they are not contrary to law, morals, good customs, public order, or public policy.[68] And the contract binds both contracting parties, and its validity or compliance cannot be left to the will of one of them.[69] But the law intervenes in the contractual relations of certain parties when it deems that such relationship is one that is vested with public interest. Hence, the law limits the freedom of contract between the employer and the employee under existing Labor Law by prescribing certain minimum standards in compensation, hours of work, and working conditions.

The law treats the relationship between the lawyer and the client similarly. Even if a written contract for services has been entered into between the lawyer and the client, when the court finds the same to be unconscionable or unreasonable, the court may ignore the written contract and fix a reasonable fee for the attorney.[70] For an attorney is entitled only to have and to recover no more than a reasonable compensation for his services. The Code of Professional Responsibility provides for the following guidelines in the determination of the fees that a lawyer may charge:

a) The time spent and the extent of the service rendered or required;

b) The novelty and difficulty of the questions involved;

c) The importance of the subject matter;

d) The skill demanded;

e) The probability of losing other employment as a result of acceptance of the proffered case;

f) The customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs;

g) The amount involved in the controversy and the benefits resulting to the client from the service;

h) The contingency or certainty of compensation;

68. An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE] art. 1306 (1950).

69. *Id.* art. 1308.

70. RULES OF COURT, Rule 138, § 24.

i) The character of the employment, whether occasional or established; and

j) The professional standing of the lawyer.[71]

In addition, the lawyer is prohibited from entering into a contract of sale with his client as to the property and rights which may be the object of any litigation in which the lawyer may take part of, by virtue of his profession.[72] Any contract entered into in violation of such law is void and can produce no legal effect. Nor can such contract be ratified or the setting up of such defense of illegality be waived.[73]

It is obvious that where the law would vest the fate of the client's litigation with the lawyer and would remove personality from the client, the lawyer is precluded from contracting freely with the client as to the fees for his services. The courts, in this situation, wield great power, for it can modify the contractual stipulations between the lawyer and the client, as an exception to the rule that the courts cannot make a contract for the parties.

It is in this area that the court's stance that the practice of law is a profession and not a trade is crystallized into reality. But decisions which enforce this rule may be the exception rather than the rule. Everyday transactions between countless lawyers and clients push through as provided for contractually, both as to service rendered and fees paid.

2. Marketing of Services

The analysis of the strict regulation of advertising is interesting, as it will reveal that the show played by the actors of the law in the theater conceals their impetus and motivation.

The Supreme Court has held: "The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct."[74] This ban is justified on the following grounds: 1) that such is unprofessional, 2) that it lowers the confidence of the community in the profession, and 3) that it stirs up strife and litigation.[75] These grounds shall be discussed separately.

71. CODE OF PROFESSIONAL RESPONSIBILITY, Rule 20.01.

72. CIVIL CODE, art. 1491.

73. Rubias v. Batiller, 51 SCRA 120 (1973).

74. *In re* Tagorda, 53 Phil 42 (1929).

75. *Id. See also* Ulep v. The Legal Clinic, Inc., 223 SCRA 378 (1993).

Firstly, advertising has been prohibited on the ground that it is unprofessional. It has been argued that advertising will bring about "commercialization, which will undermine the attorney's sense of dignity and self-worth. The hustle of the marketplace will adversely affect the profession's service orientation, and irreparably damage the delicate balance between the lawyer's need to earn and his obligation selflessly to serve."[76] Having repeatedly pronounced that the practice of law is a profession and not commerce, anything that furthers commercial ends may be considered unprofessional. The law therefore sharply limits the advertising of services, as advertising, by its very nature, arouses awareness of the goods or wares offered by a merchant. Very few means of advertising are permissible: the publication or circulation of ordinary simple business cards which cannot be mailed out indiscriminately to persons whom he does not know,[77] simple signs stating the name or names of the lawyers,[78] advertisements in legal periodicals bearing the same brief data that is allowed to appear in business cards,[79] and publication in reputable law lists.[80]

But it has been earlier argued that the historically clerical and aristocratic office of the lawyer has become obsolete and anachronistic. And if it were true that the lawyer's duty is in the provision of aid to the community, the lawyer will fail miserably if those who need his services are unaware that he offers such services.

The prohibition against advertising on the ground that it is unprofessional also presumes that the lawyer already has an established clientele, and that the lawyer's reputation for good work among his clients will inevitably lead others to seek out the lawyer's services.[81]

The United States Supreme Court decision in *Bates v. State Bar of Arizona*,[82] challenged these norms that, by contrast, the Philippine Supreme Court has sought to protect:

> In fact, it has been suggested that the failure of lawyers to advertise creates public disillusionment with the profession. The absence of advertising may be seen to reflect the profession's failure to reach out and serve the community: Studies reveal that many persons do not obtain counsel even when they perceive a need because of the feared price of services or because of an inability to locate a competent attorney. Indeed, cynicism with regard to the profession may be created by the fact that it long has publicly eschewed advertising, while condoning the actions of the attorney who structures his social or civic associations so as to provide contacts with potential clients.[83]

76. Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

77. *In re* Tagorda, 53 Phil 42 (1929). Ernesto Pineda, however, writes that it is acceptable for the calling cards to contain the lawyer's special lines in law, and even a formal picture of the face of the lawyer (PINEDA, *supra* note 2, at 61).

78. PINEDA, *supra* note 2, at 61.

79. *Id.*

80. *Ulep*, 223 SCRA at 378.

81. Ernani Cruz Paño, *Lawyer's Advertising and Publicity: The Modern View*, 8 JOURNAL OF THE INTEGRATED BAR OF THE PHILIPPINES 188, Fourth Quarter (1980).

82. 433 U.S. 350 (1977).

Judge Ernani Paño additionally argues that the ban on advertising is inappropriate for lawyers without established clientele, and for most lower- and middle-income clients who may be unaware of their needs for legal services.[84]

Secondly, advertising has also been controlled on the allegation that it lowers the standards by which the public holds the legal profession to. The Court has held that to allow the publication of advertisements would only serve "to aggravate what is already a deteriorating public opinion of the legal profession whose integrity has consistently been under attack lately by media and the community in general."[85] The US Supreme Court in *Bates* responds: "In this day, we do not belittle the person who earns his living by the strength of his arm or the force of his mind. Since the belief that lawyers are somehow 'above' trade has become an anachronism, the historical foundation for the advertising restraint has crumbled."[86]

Thirdly, advertising is prohibited because this would stir up strife and litigation. To be sure, solicitation of cases by lawyers creates evils such as the possibility that the lawyer who solicits services may be incompetent to serve the client's cause, that the solicitation prevents an active choice of lawyers, and that solicitation may result in overcharging.[87] But open advertising may counteract the very evils that selected (and illegal) advertising brings about.

Prohibiting advertising on the ground that it would stir litigation is consistent with the call on lawyers to serve their clients by keeping the cases out of court, and to settle the claims. But seeking of redress in court is not an evil. The sanitizing effect of public exposure of events in the court of law is sometimes necessary to publicly prove the truth.[88] If all cases were settled

83. *Bates*, 433 US, at 370-71 (citations omitted).

84. Paño, *supra* note 81, at 191.

85. *Ulep*, 223 SCRA at 378.

86. *Bates*, 433 U.S. at 371-2.

87. Paño, *supra* note 81, at 189.

88. Prof. Carlos P. Medina, Address at the *LEX: Legal Ethics in Extraordinary Times*, a symposium hosted by the *Ateneo Law* Journal held at the Ateneo de Manila University School of Law on Feb. 20, 2004.

out of court, there would be a dearth of judicial precedents. These precedents are essential in a legal system where pronouncements of the courts have the force and effect of law, and may be more responsive to changing public needs than the law which the courts apply and interpret.

But the rules regulating advertising is a means to perpetuate the large volume of business enjoyed by lawyers who already have a successful practice. It may be attacked as anti-competitive and in conflict with the client's need to receive information about lawyers and their services.[89] The ban on advertising protects the business of successful lawyers in two ways: by limiting the costs on advertising and by preventing the entry of new players in the industry.

The field of Marketing Management recognizes certain philosophies which guide the marketing efforts of companies with regard to their target market. Organizations use these concepts or philosophies to guide their marketing activities. The view that the lawyer is not permitted to actively seek out clients and that the best advertising is a well-merited reputation for excellence imposes the "product concept" in marketing. Under the product concept, consumers will favor products that offer the most quality, performance, and features and that the company should devote its energy to making continuous product improvements.[90] The rules that govern advertising have prevented lawyers from pursuing the "selling concept" in marketing, which theorizes that consumers will not buy enough of the organization's products unless the organization undertakes a large-scale selling and promotional effort.[91]

With the rules effectively dictating the marketing strategy of lawyers and law firms, the current field of practitioners can enjoy a level of stability and prevent the incurring of expenses to engage in advertising battles with possible new entrants. Instead, the rules bring the battle for clientele to the level that is most favorable to the entrenched practitioners in the field – that of a reputation of excellence in practice, which is simply impossible to obtain without entering the field, to start with. Well-known practitioners also have means of bypassing the prohibition against advertising. Reputable lawyers publish articles in newspapers and appear in television and radio programs, and their draw to prospective clients is inevitable.

The ban on advertising is beneficial both against small and medium-sized competitors in the field, but also against foreign competition. The

89. Paño, *supra* note 81, at 191.

90. PHILIP KOTLER & GARY ARMSTRONG, PRINCIPLES OF MARKETING 16 (7th ed. 1996).

91. *Id.*

Constitution limits the practice of professions to Filipino citizens.[92] The practice of law is one such profession which is limited to Filipino citizens.[93] But the commitment of the Philippines with the General Agreements of Trade in Services, the ASEAN Framework Agreement on Services, and the establishment of Mutual Recognition Agreements will gradually open the practice of law to foreigners. The ban on advertising may set up a strong barrier to the entry of competitors in the legal profession.

IV. THE LAWYER'S DUTIES TO SOCIETY, THE COURT, AND THE LEGAL PROFESSION

The chapters of the Code of Professional Responsibility which treat the duties of the lawyer towards society, the courts, and the legal profession occupy a position of primacy, in the drafting of Code. While logically, this should mean that these chapters would enumerate the duties of the lawyers to these constituencies, which authors have constantly insisted are the lawyer's primary constituents, most of provisions in these chapters continue to regulate the lawyer's relationship with his client, imposing restrictions on the lawyer's advocacy of his client's cause. There are few positive obligations which are imposed in these chapters as to the lawyer's obligations towards these constituencies.

The following lists the positive obligations of the lawyer towards society, the court, and the legal profession, that can exist independently whether or not the lawyer is retained by a client:

a) To uphold the Constitution, obey the laws of the land and promote respect for law and legal processes;[94]

b) To make his legal services available in an efficient and convenient manner compatible with the independence, integrity and effectiveness of the profession;[95]

c) Not to reject, except for valid reasons, the cause of the defenseless or the oppressed;[96]

d) To participate in the development of the legal system by initiating or supporting efforts in law reform and in the improvement of the administration of justice;[97]

92. PHIL. CONST. art. XII, § 14.

93. RULES OF COURT, Rule 138, § 2; *In re* Bosque, 1 Phil. 88 (1902); Tan Sen Hoo v. De la Fuente, 90 Phil. 605 (1951); *In re* Garcia, 112 Phil. 884 (1961).

94. CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1.

95. *Id.* Canon 2.

96. *Id.* Rule 2.01.

97. *Id.* Canon 4.

e) To keep abreast of legal developments, participate in continuing legal education programs, support efforts to achieve high standards in law schools as well as in the practical training of law students and assist in disseminating the law and jurisprudence;[98]

f) Not to encroach upon the professional employment of another lawyer;[99]

g) To exert every effort and consider it his duty to assist in the speedy and efficient administration of justice;[100]

The few positive obligations that are imposed do not appear to be mandatory prohibitions, the transgression of which may give rise to punitive sanctions. Most of these positive obligations are ideals which the drafters of the Code may wish the members of the bar to aspire towards. Apart from the requirement to uphold the Constitution and obey the laws, none of the obligations appear to be compulsory.

May it then be argued that a society would be better if it had lawyers who were compelled to perform these duties? What if the duty to assist in the speedy and efficient administration of justice were mandatory on all lawyers, as much as it is the duty of lawyers advocate his clients cause with diligence?

A seminal essay of Judge Sharswood states:

> The dignity and importance of the Law [and] its relations to society at large... may be done by showing its influence upon legislation and jurisprudence. [L]egislation is meant the making of law; [j]urisprudence is the science of what the law is or means, and its practical application to cases as they arise....
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> xxx
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> How great is the influence of lawyers as a class upon legislation? Let any man look upon all that has been done in this department, and trace it to its source. He will acknowledge that legislation, good or bad, springs from the Bar. The... lawyer, considering the compass of his varied duties, and the probable call which will be made on him especially to enter the halls of legislation, must be a jurist.[101]

98. *Id.* Canon 5.

99. *Id.* Rule 8.02.

100. *Id.* Canon 12.

101. GARCIA, *supra* note 10, at 14-16 (citing Sharwood, An Essay on Professional Ethics, Vol. XXXII (1907), Reports of the American Bar Association).

Indeed, the law is bent and shaped according to the triumphs of lawyers in the cases that they advocate, especially in the Philippine context, where judicial decisions interpreting the laws become part of the law of the land.[102]

Chief Justice Malcolm pronounces that a lawyer owes a duty to the law, and simply upholding the law is not enough: "He must be the leader in legal innovations which will represent the best thought of the community. His profession demands of him more than ordinary public service of citizenship."[103] Senator Salonga pines for times when distinguished lawyers were the leaders of the community and of the whole nation, and because lawyers were considered officers of the court, to be a member of the Philippine Bar was considered a great responsibility.[104] Professor Garcia writes that the first and paramount duty of a lawyer is to uphold the law and to insure the proper administration of justice, and his duty to his clients is subordinate to this.[105]

But the law is often a compromise between two or more competing values. The compromise struck by legislation is tested by its everyday execution, and by the means by which the conflicts which arise from the law is settled and arbitrated. For instance, in the rules on Criminal Procedure, the law sets into place three distinct bodies in the criminal justice system, each with distinct roles. The Legislature makes laws, the Executive enforces it, the Judiciary decides disputes. It is a system of distrust – of check and balance. The apprehension of criminals is entrusted to the police, as they enforce the law. But common sense presumes that they will naturally want conviction. To avoid this, the law appoints an independent body to take a second look over the process. This function is undertaken by the Judiciary.

The political and electoral process ensures that each body is representative of the constituents that it stands for. If a legislator does not craft legislation that meets the needs of his constituents, his political career is obliterated. Judges who rule arbitrarily subject themselves to civil, criminal, and administrative liability. The President is subject to impeachment. But if the lawyer, as part of his duties as an officer of the court, were to have the power and responsibility to aid in the legislative process by any means other than representing the causes of clients or apart from participating in the political process as an elective public official, he would wield immense

102. CIVIL CODE, art. 8.

103. MALCOLM, *supra* note 3, at 194 (citing Elihu Root, Some of the Duties of American Lawyers to American Law, 14 YALE L.J. 63).

104. Jovito R. Salonga, Restoring Pride in the Law Profession and the Role of *Bantay Katarungan* in THE INTANGIBLES THAT MAKE A NATION GREAT 238 (2003).

105. GARCIA, *supra* note 10, at 75.

power that would be subject to no one's control save the lawyer's own whims and caprices.

It may be argued that these "whims and caprices" cannot be anything but good and proper. The rules on admission to the bar require the applicant to be of good moral character, and he must produce before the Supreme Court satisfactory evidence of good moral character, and that no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines.[106] Having passed this exacting standard of morality, surely, the power to influence legislation would not be ill-placed.

But what precisely constitutes "good moral character?" The law does not define the term, nor does it lay the criteria for determining its meaning. It appears that the only standard by which judicial decisions have held an applicant not to be of good moral character, to be the absence of proven conduct or act which has been historically and traditionally considered as a manifestation of moral turpitude.[107] The act or conduct showing moral turpitude need not amount to a crime. The standard is not satisfied simply by the fact that the act is not penalized by criminal law, but includes at least common honesty.[108] But what more does it truly include? In this regard, scholarship and jurisprudence provides no ready answer. In fact, the requirement of good moral character has been criticism to be ambiguous and susceptible to as many definitions as there are persons defining it, and that such vague qualification can easily be adapted to personal views and predilections.[109]

These same criticisms may be leveled against legislators. In fact, the Constitution, which provides for the qualifications for legislators does not even directly provide for the requirement of good moral character. Candidates for legislative office are merely required to be a registered voter, and it is necessary to turn to the Omnibus Election Code to find that being sentenced by final judgment to suffer imprisonment for not less than one year, when such disability is not removed by plenary pardon or amnesty, shall be disqualified from voting.[110] But there are crucial differences that exist between the office of the legislator and that of the lawyer. A legislator's action is tested by his submitting himself to the will of his constituents at the end of his term. A lawyer faces no such test from his perceived constituents. Furthermore, because of the power to shape law, the legislator is prevented from personally

106. RULES OF COURT, Rule 138, § 2.

107. RUBEN E. AGPALO, LEGAL ETHICS 49 (4th ed. 1989) (citing Konegsberg v. State Bar of California, 353 U.S. 252 (1957)).

108. *Id.* at 50.

109. *Id.* at 49.

110. Batas Pambansa Blg. 881, Omnibus Election Code, § 118 (a).

appearing as counsel before any court of justice or any quasi-judicial body.[111] If the lawyer's office included the responsibility to shape law, regardless of whether he does so while advocating another's cause or not, nigh absolute power would be vested in his power, as it would be within his capability to shape the law according to the exigencies of every cause that he represents and advocates.

This situation is implicitly guarded against even in the Constitution. If the lawyer would file his case to challenge the constitutionality of any law or act not in his capacity as another's advocate, then the Judiciary has no jurisdiction over his cause. The court's power to settle controversies exists only when the controversy involves rights which are legally demandable and enforceable.[112]

By limiting the court's exercise of judicial power to cases where a controversy truly exists, a lawyer cannot ask the court to exercise its great power of pronouncing judgments which would form part of the law of the land. Even if the lawyer perceives the change he proposes to be beneficial to society, the court cannot take cognizance of such cause. The obvious reason for this is to obviate the possible abuse of such power, when the lawyer who plays the game of litigation can change the very rules of such game, for his own self-interest. But the underlying reason for such limitation is the acknowledgment that even if a lawyer's heart is true in his pursuit of goodness, what is good for one may not be good for another. The determination of the compromises that must be made between conflicting values – the act of legislation itself – must be done by a collegial body that represents constituents, who will be ultimately accountable to these constituents. A lawyer who serves no constituents, who can never be removed from his office, will have absolute power.

The analysis must then consider the situation when the lawyer now represents a client. An exemplification which stretches the scenario to the point of absurdity is necessary to illustrate the point. A lawyer, who was admitted to practice by virtue of his good moral character, represents the cause of a client whom he knows to be furthering an act, which, while not penalized under the law, is harmful to other parties, or to society, or to the environment. What if the power to shape legislation were granted to lawyers in such a position? Now then, the scenario would have hurdled the challenge that a powerful being who serves no constituency is absolutely powerful, for now, he represents a client. This client, upon realizing that the lawyer has exercised his obligation to shape the law for the better, can dismiss the services of the lawyer. But the lawyer would have fulfilled this so-called primary duty, which is greater than his duty to the client.

111. PHIL. CONST. art. VI, § 14.

112. PHIL. CONST. art. VIII, § 1.

That the lawyer's primary duty is to better society and not to serve his client's interest cannot be justified in this manner. The lawyer is employed precisely to champion the cause of another who is not knowledgeable in the law. When a lawyer takes on a client's interest, he is bound by his duties to his client to serve the cause with zeal and to represent the client with competence and diligence. In the course thereof, the lawyer may realize that his client may have benefited from a law or the lack thereof. In such case, he is in no position to advocate another cause, apart from his client's own. Any other case would be a gross violation of his fiduciary duties towards his client.

V. Conclusion: The Spirit That Moves the Practice

It is necessary to highlight, at this point, that the analysis does not take away anything in the lawyer's duty to obey the law and not to violate it for the interest of any party, whether it be the client or not. Furthermore, the voluntary and sometimes un-rewarded services in the academe, in the society, in the government are not charged as malevolent, or useless, for that matter. And in the insistence that the lawyer's primordial duty is perhaps to his client, there is no corresponding claim that in the name of the service to the client, he can break the law or use his mastery thereof to create a maze wherein which meritorious causes can be banished.

The pronouncements of the Supreme Court, the Code of Professional Responsibility, and the writings of scholars hark back to a time when the persons learned in the law were clerics and nobles. Perhaps, this satisfies the need of a people to believe that those who champion their causes do so out of chivalry. For historically, altruistic behavior, when done for pecuniary gain, is mercenary.

But by comparing the rules that govern the practice of law with knowledge in other disciplines such as Political Law, Civil Law, and Commercial Law, and by engaging in a historical and business analysis of the rules, it appears that the rules say more than what is patent. The analysis of the rule on privileged communication and the strict regulation on advertising presented in this essay, may have been devices which lawyers may use for their own purposes. Certain elements in the rules allow lawyers to maintain their stature, influence and power. This essay sheds the handsome raiment that has draped the rules that govern the practice of law, and suggests an alternative model by which to view the rules that regulate the practice of law: that the rules that govern the practice are commercially motivated.

The analysis seems to have posited that lawyers have been stripped of all accountability to society, the legal profession and to courts, and the only party that he answers to seems to be the client that he serves. This arises from

the realization that the duties mandated on the lawyer towards society, the bench, and the profession actually regulate his relationship towards the client rather than imposing positive duties towards these parties. Furthermore, this has been achieved by the destruction of the traditionally held notion that the lawyer has duties towards society in advocating legislation that is good for society because this is a duty which has no place in his role as an advocate. But the notion that the lawyer has no duty other than to his client is not groundbreaking. In fact, this notion is what the Supreme Court has chastised. But it is important to realize that the very rules that govern the conduct of the practice of law, may actually be instruments by which the practice of law, as a trade, is perpetuated.

To be sure, the lawyer-client relationship is not the only fiduciary relationship where control over the property or affairs of one party is removed from one and transferred to another for the reason of the latter's supposed expertise in the affairs of the former. This also exists in the role of the guardian for wards, the receiver for financially distressed institutions, and the director for the corporation, among others. And certainly, lawyers are not the only professionals that wield power by virtue of their technical skills. Doctors, accountants, architects, engineers all wield considerable influence in the lives of men. But it appears that no other profession has been subject to the derision that the legal profession has suffered, both in popular opinion and literature. One of the reasons for this may be the mystery by which the legal profession has surrounded itself with. What is more suspicious than marketing strategy obscured as codes of behavior? By recognizing certain elements of the rules that govern the practice of law to have commercial motivation, this essay takes the initial steps towards understanding the legal profession.