

Proposal 99-10
(P.R. 0068)

Offered by the Attorney Registration and Disciplinary Commission
Recommended by the Supreme Court Committee on Professional Responsibility

New Rule 779. Limitations

- (a) **General Provisions.** Charges brought pursuant to Supreme Court Rule 753 alleging conversion or violations of Illinois Rules of Professional Conduct 8.1(a), 8.4(a)(3) or (4), 3.3(a)(15), or 3.5(h) may be filed before the Hearing Board at any time. Unless the limitation is extended by the provisions of paragraph (b) of this rule, all other charges must be filed before the Hearing Board within five years of the commission of the misconduct.
- (b) **Extended Limitations.** The period within which a charge must be filed under the provisions of this rule is extended by the following conditions:
- (1) a charge alleging a violation of Rule 1.8(c) may be commenced within two years of the latter of the following two events: the discovery of the gift by an aggrieved party (other than the grantor) or, if all of the aggrieved parties are minors or under legal disability, then the termination of the minority or disability of any one of those parties;
 - (2) a charge may be filed within two years of the disclosure of its underlying facts in a civil or criminal proceeding.
- (c) **Periods Excluded from Limitation.** The period within which a charge must be filed does not include any period in which:
- (1) proceedings are pending under Supreme Court Rule 754 relating to the attorney's compliance with a subpoena related to the charge;
 - (2) an attorney or judicial disciplinary proceeding or a criminal proceeding for the same conduct is pending against the lawyer, even if those proceedings result in the dismissal of those charges;
 - (3) the attorney has concealed the facts underlying the charge from the aggrieved party and the aggrieved party does not know of and should not know of the conduct of the attorney. Concealment includes a communication that constitutes a misrepresentation by commission or omission; or
 - (4) the attorney has concealed the facts underlying the charge from the

Commission. Such concealment includes a communication to the Commission that constitutes a misrepresentation by omission or commission.

- (d) **Commencement of Limitation Period.** Except as provided below, misconduct will be deemed to have been committed when every element of the alleged violation has occurred. When a charge is based on a series of acts performed at different times, the period of limitations under this rule starts when the last such act is committed. When the charge alleges a violation of a continuing duty, the limitation period under this rule starts at the termination of that duty.
- (e) **Procedure.** The attorney may assert the provisions of this rule in an answer to a complaint filed before the Hearing Board. If the attorney does not do so in a timely fashion, the limitations provisions of this rule are deemed waived. Once asserted, the Administrator bears the burden of establishing that the charges are not barred by the application of this rule. The attorney may agree to extend the limitations period under this rule.
- (f) **Applicability of Rule.** This rule shall apply to conduct that occurs after its effective date. The rule shall apply only to charges included in complaints voted by the Inquiry Board pursuant to Supreme Court Rule 753. Nothing in this rule shall prohibit the admission of evidence in proceedings to establish that the attorney has engaged in a course of conduct, to the extent that such evidence is otherwise admissible.