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Ms. Elena Sasauer
Center for Judicial Accountability

VIA TELECOPIER
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Dear Ms. Sasauer:

As per your request, I have attached a copy of Rule 8.3 of the ABA Model Rules of Professional Conduct with accompanying annotations as they appear in the 1996 edition of the *ABA Annotated Model Rules of Professional Conduct*.

As you may be aware, the ABA Model Rules of Professional Conduct are advisory only. The ethics rules, laws and court decisions of the individual jurisdiction are controlling

Please call me at (312) 988-5315 if you have any questions.

Sincerely

Peter Geraghty
Director, ETHICSearch

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MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.3

Reporting Professional Misconduct

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while serving as a member of an approved lawyers assistance program to the extent that such information would be confidential if it were communicated subject to the attorney-client privilege.

COMMENT

[1] Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.

[2] A report about misconduct is not required where it would involve violation of Rule 1.6. However, a lawyer should encourage a client to consent to disclosure where prosecution would not substantially prejudice the client's interests.

[3] If a lawyer were obliged to report every violation of the Rules, the failure to report any violation would itself be a professional offense. Such a requirement existed in many jurisdictions but proved to be unenforceable. This Rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this Rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware. A report should be made to the bar disciplinary agency unless some other agency, such as a peer review agency, is more appropriate in the circumstances. Similar considerations apply to the reporting of judicial misconduct.

[4] The duty to report professional misconduct does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question. Such a situation is governed by the Rules applicable to the client-lawyer relationship.

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[5] Information about a lawyer's or judge's misconduct or fitness may be received by a lawyer in the course of that lawyer's participation in an approved lawyers or judges assistance program. In that circumstance, providing for the confidentiality of such information encourages lawyers and judges to seek treatment through such program. Conversely, without such confidentiality, lawyers and judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. The Rule therefore exempts the lawyer from the reporting requirements of paragraphs (a) and (b) with respect to information that would be privileged if the relationship between the impaired lawyer or judge and the recipient of the information were that of a client and a lawyer. On the other hand, a lawyer who receives such information would nevertheless be required to comply with the Rule 8.3 reporting provisions to report misconduct if the impaired lawyer or judge indicates an intent to engage in illegal activity, for example, the conversion of client funds to his or her use.

MODEL CODE COMPARISON

DR 1-103(A) provided that "[a] lawyer possessing unprivileged knowledge of a violation of [a Disciplinary Rule] shall report such knowledge to . . . authority empowered to investigate or act upon such violation."

LEGAL BACKGROUND

THE DUTY TO REPORT

A lawyer has a duty to report another lawyer's misconduct. See *United States v. White*, 743 F.2d 488 (7th Cir. 1984) (Flaum, J., concurring) (prosecution has obligation to move to disqualify defense lawyer when potential ethical problems exist); *Keulik v. Goldstein*, 724 F.2d 844 (1st Cir. 1984) (responsibility to bring another lawyer's ethics violation to court's attention); *Prue v. Statewide Grievance Comm.*, No. Civ. 94-0539956-S 1995 WL 656784 (Conn. Oct. 30, 1995) (lawyer's appeal of reprimand for failing to safeguard client's funds dismissed; court found complaint filed by former associate against lawyer not only proper under state civil practice code and practice book, but possibly mandated by Rule 8.3); *In re Borders*, 665 A.2d 1381 (D.C. 1995) (reinstatement denied to disbarred lawyer who violated Rule 8.3 by refusing to testify about judge's misconduct during impeachment proceedings against judge); *Attorney Grievance Comm'n v. Kahn*, 431 A.2d 1336 (Md. 1981) (lawyer disbarred for acquiescing and participating in unethical conduct of his firm and for failing to report such conduct); *Wieder v. Skala*, 609 N.E.2d 105 (N.Y. 1992) (reporting requirement considered implied-in-law term of every employment contract between law firm and its associates; associate fired for insisting that firm report misconduct by one of its lawyers may bring claim against firm for breach of contract); *In re Dowd & Pennisi*, 559 N.Y.S.2d 365 (App. Div. 1990) (two lawyers who paid kickbacks to city officials, one of whom was lawyer, and failed to report kickback demands suspended for five years); *Office of Disciplinary Counsel v. Tumini*, 453 A.2d 310 (Pa. 1982) (lawyer disciplined for testifying falsely to cover up illegal activity of associate; failure to recant false testimony until faced with possible indictment for perjury); *Lisi v. Several Attorneys*, 596 A.2d 313 (R.I. 1991) (in addition to sanctions for violating Rule 3.5 by making loans to judge, lawyers given sanctions for

violating Rule 8.3 by failing to report judicial misconduct); *In re Rivers*, 331 S.E.2d 332 (S.C. 1984) (lawyer reprimanded for failure to report another lawyer's misconduct in contacting jurors); compare *Brown & Williamson Tobacco Corp. v. Daniel Int'l. Corp.*, 563 F.2d 671 (5th Cir. 1977) (DR 1-103(A) has been held to confer standing on opposing party in litigation to raise conflict of interest questions) with *Dawson v. City of Bartlesville*, 901 F. Supp. 314 (N.D. Okla. 1995) (refusing to follow rule of First, Fourth, and Fifth Circuit Courts of Appeal, which "grant standing to virtually any attorney to move for disqualification based on any asserted ethical violation," on grounds that broad grant of standing contrary to intent of Oklahoma rules that caution against invocation of rules by opposing parties).

The duty of a lawyer to report the misconduct of another lawyer is the subject of many ethics opinions. See ABA Comm. on Ethics and Professional Responsibility, Informal Op. 1203 (1972) (DR 1-103(A) would require junior lawyer in firm to report unprivileged knowledge of senior lawyer's violation of Disciplinary Rule); State Bar of Ariz., Comm. on Rules of Professional Conduct, Op. 94-09 (1994) (lawyer who knows his client charged excessive fee by another lawyer must report misconduct after obtaining client's consent); Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 94-30 (1994) (lawyer representing husband in divorce action cannot report misconduct of wife's lawyer, which husband learned from illegal wiretap of marital home; report by husband's lawyer would itself constitute misconduct); Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 94-11 (1994) (when client willing to cooperate, lawyer representing wife in divorce action must report husband/lawyer's history of cocaine use, spousal abuse, and arrests for such abuse, discovered during pendency of divorce action, proven at trial of case, and cited in court's opinion); Ill. State Bar Ass'n, Comm. on Professional Ethics, Op. 93-19 (1994) (lawyer not required to report settlement proposal to sign release and confidentiality agreement as alternative to projected media publicity if judgment obtained against lawyer's client, unless settlement offer constitutes crime of intimidation); Ill. State Bar Ass'n, Comm. on Professional Ethics, Op. 93-20 (1994) (lawyer employed by regulatory agency has no duty to report supervising lawyer's ownership of stock in corporation subject to supervising lawyer's enforcement action); Ill. State Bar Ass'n, Comm. on Professional Ethics, Op. 93-3 (1993) (lawyer not required to report client's former law firm's potentially improper loans to client; loans may constitute conflict of interest but do not constitute criminal act or conduct involving dishonesty, fraud, deceit, or misrepresentation); State Bar of Wis., Comm. on Professional Ethics, Op. E-85-11 (1985) (law firm that discovers that a former associate billed clients for fictitious travel expenses must report information to discipline authority and to overcharged clients); Md. State Bar Ass'n, Comm. on Ethics, Op. 85-6 (1984) (lawyer who possesses letter from another lawyer to physician, requesting physician to falsify client's injuries, must report apparent ethical violation); Pa. Bar Ass'n, Professional Guidance Comm., Op. 95-13 (lawyer may not accept settlement offer that requires lawyer to violate rules of professional conduct; lawyer must also consider whether to report opposing counsel to bar authorities for making offer); Pa. Bar Ass'n, Professional Guidance Comm., Op. 92-8 (1992) (lawyer should report another lawyer who threatened physical violence and professional humiliation because of belief that lawyer "stole" clients); Tenn. Bar, Ethics Comm., Op. 85-F-51 (1983) (lawyer who takes over another lawyer's files must report any ethics violations discovered); N.Y. State Bar Ass'n, Comm. on Professional Ethics, Op. 635 (clarifying Op. 531 [1981] and providing

analytical framework for lawyer's evaluation of requirement to report belief that former firm acted unethically); W. Va. State Bar, Legal Ethics Comm., Op. 92-04 (undated) (not sufficient to report lawyer's misappropriation of client funds to lawyer impairment and assistance committees; lawyer must also report impaired lawyer to legal ethics committee, unless information confidential); cf. San Diego County Bar Ass'n, Comm. on Legal Ethics and Unlawful Practice, Op. 1992-2 (1992) (in California, which does not have analogue to Rule 8.3, no duty to report another lawyer's misconduct; however, lawyer who does report another lawyer's misconduct to disciplinary authorities is absolutely privileged from liability).

As for a lawyer's duty to report a partner, one ethics committee has rules that a lawyer whose former partner failed to file a suit within the limitations period must report the former partner, even though, under the imputed responsibility principle of Rule 5.1(c), this may mean reporting himself. Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 89-21 (1989)

Regarding a lawyer's duty to report a bar applicant, another (Ethics committee ruled that a lawyer who employed a law student does not have an affirmative duty to contact the bar admissions committee and apprise it of his concerns about the student's character and fitness, because in the normal course of the application process his input will be sought. Nassau County Bar Ass'n, Comm. on Professional Ethics, Op. 94-23. However, if the lawyer is never contacted by the bar admissions authorities and later learns the student was admitted (perhaps because the student concealed that part of his employment history), then the obligation to report may be triggered. *Id.*

IN RE HIMMEL

The Illinois Supreme Court, in a controversial decision, suspended a lawyer who possessed unprivileged information that his client's first lawyer converted the client's funds and who, instead of reporting this to disciplinary authorities, settled with the first lawyer and agreed not to initiate any criminal, civil, or disciplinary action against him. *In re Himmel*, 533 N.E.2d 790 (Ill. 1988).

The *Himmel* decision is the first reported case involving discipline based solely on a lawyer's failure to report another lawyer's unethical conduct, and it has prompted much commentary and debate. See Burwick, *You Dirty Rat! Model Rule 8.3 and Mandatory Reporting of Attorney Misconduct*, 8 Geo. J. Legal Ethics 137 (1994) (addressing effectiveness of reporting requirement and problems with interpretation and enforcement); Marcotte, *The Duty to Inform*, 75 A.B.A. J. 17 (1989) (noting confusion about types of conduct to be reported); Rotunda, *The Lawyer's Duty to Report Another Lawyer's Unethical Violations in the Wake of Himmel*, 1988 U. Ill. L. Rev. 977 (addressing parameters of duty to report and noting lack of guidelines for reporting).

Several commentators criticize *Himmel's* narrow interpretation of privileged information, which is based on evidentiary rules rather than ethical considerations. See, e.g., Burke, *Where Does My Loyalty Lie?: In re Himmel*, 3 Geo. J. Legal Ethics 643 (1990) (confusion likely to result from court's failure to recognize tension between duty to keep client's secrets and duty to report lawyer misconduct); Rotunda, *The Lawyer's Duty to Report Another Lawyer's Unethical Violations in the Wake of Himmel*, 1988 U. Ill. L. Rev. 977, 987 (*Himmel* ignored ethical standards for interpretation of "privileged information" and referred only to law of evidence). For additional commentary about the scope of a lawyer's duty to report another lawyer's misconduct, see ABA/BNA *Law. Manual on*

Prof. Conduct, 101:201-08 (1989) (including analysis of state variations on the reporting requirement); Lynch, *The Lawyer as Informer*, 1986 Duke L.J. 491; Thode, *The Duty of Lawyers and Judges to Report Other Lawyers' Breaches of Standards of the Legal Profession*, 1976 Utah L. Rev. 95, 99; Note, *The Lawyer's Duty to Report Professional Misconduct*, 20 Ariz. L. Rev. 509, 515 n.23, 517 (1978); Sub, *Serving Two Masters: The Obligation under the Rules of Conduct to Report Attorney Misconduct in a Confidential Mediation*, 26 Rutgers L.J. 155 (1994); Tate, *The Boundaries of Self-Policing: Must a Law Firm Prevent and Report a Firm Member's Securities Trading on the Basis of Client Confidences*, 40 U. Kan. L. Rev. 807 (1992); Gendry, *An Attorney's Duty to Report the Professional Misconduct of Co-Workers*, 18 S. Ill. U. L.J. 603 (1994).

"KNOWLEDGE"

Rule 8.3 requires that a lawyer have "knowledge" of a disciplinary violation. The terms "knowingly," "known," and "knows" denote actual knowledge, but knowledge may be inferred from circumstances. *Model Rules of Professional Conduct*, Preamble, Scope and Terminology (1995). Although absolute certainty is not required under Rule 8.3, the lawyer's knowledge of another lawyer's unethical conduct must amount to "more than a mere suspicion." See D.C. Bar, *Legal Ethics Comm.*, Op. 246 (1994) (lawyer must report only if lawyer has clear belief that misconduct occurred and possesses actual knowledge of pertinent facts); Ala. State Bar, *Ethics Op.* 85-95 (1985); N.Y. City Bar Ass'n, *Comm. on Professional Ethics*, Op. 635 (1992) (absolute certainty not required, but mere suspicion does not give rise to reporting obligation; collecting ethics opinions. *But cf.* Cleveland Bar Ass'n, *Professional Ethics Comm.*, Op. 85-1 (lawyer may report his or her suspicions, as long as information not privileged).

Whether the reporting lawyer's knowledge must be objective or subjective is not clear. Compare *Attorney U. v. Mississippi Bar*, No. 92-BA-01201-SCT 1995 WL 442214 (Miss. July 27, 1995) (collecting state ethics opinions and commentary; "The standard must be an objective one . . . not tied to the subjective beliefs of the lawyer in question. The supporting evidence must be such that a reasonable lawyer under the circumstances would have formed a firm opinion that the conduct in question had more likely than not occurred") with R.I. Sup. Ct., *Ethics Advisory Panel*, Op. 95-40 (1995) ("the determination as to whether another attorney has violated an ethical rule . . . is one which involves a credibility determination that is largely subjective and is therefore one to be made by the attorney witnessing such conduct").

REPORTING ONESELF

The ABA Standing Committee on Ethics and Professional Responsibility has opined that there is no duty to report oneself in violation of the privilege against self-incrimination. ABA *Comm. on Ethics and Professional Responsibility*, *Informal Op.* 1279 (1973) (limiting scope of DR 1-103(A) to information that would not be protected by privilege against self-incrimination). Thus the duty to report under Rule 8.3 is specifically limited to "knowledge that another lawyer has committed a violation of the Rules . . ." Rule 8.1, requiring candor and responsiveness to disciplinary authorities, and requiring disclosure of facts necessary to correct a disciplinary authority's misapprehension, is not similarly limited to "other" lawyers. Compare N.Y. State Bar Ass'n, *Comm. on Professional Ethics*, Op. 635 (1992) (no obligation under DR 1-103(A) to report one's own violation of disciplinary rule, in view of lawyer's Fifth Amendment

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right against self-incrimination if a risk of criminal prosecution) with *Office of Disciplinary Counsel v. Casety*, 512 A.2d 607 (Pa. 1986) (lawyer who deliberately failed to inform disciplinary authority about his conviction and devised scheme to misrepresent ability to continue in active practice during three years of incarceration violated DR 1-103(A)). For background, see Note, *Self-Incrimination: Privilege, Immunity and Comment in Bar Disciplinary Proceedings*, 72 Mich. L. Rev. 84 (1973) (if DR 1-103(A) requires lawyer to report his or her own misconduct, it may be at odds with Fifth Amendment right against self-incrimination).

NO DUTY TO DISCLOSE CONFIDENTIAL INFORMATION

Rule 8.3(c) expressly defers to Rule 1.6, the confidentiality provision. Thus there is no duty to report when confidential information would be disclosed. See, e.g., *In re Ethics Advisory Panel Opinion No. 92-1*, 627 A.2d 317 (R.I. 1993) (when lawyer learns of another lawyer's misconduct while representing client, duty of confidentiality prohibits him or her from reporting other lawyer without client's consent, even if he or she learns of misconduct from other lawyer's admission rather than from client; state supreme court requested further study on possible amendments to confidentiality rule out of concern for effectiveness of legal system's regulation of itself); Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 89-14 (1989) (in-house lawyer who learns that other lawyers in his company may have entered into illegal payment agreement with informant may not report the misconduct, as disclosure would implicate the company); Md. State Bar Ass'n, Comm. on Ethics, Op. 89-46 (1989) (lawyer suing client's former lawyer for breach of fiduciary duty not required to report when client asked lawyer not to file complaint against former lawyer); N.Y. State Bar Ass'n, Comm. on Professional Ethics, Op. 635 (1992) (if information is client secret or confidence as defined in DR 4-101(A), lawyer may not disclose it without client's consent); Pa. Bar Ass'n, Professional Guidance Comm., Op. 93-28 (1994) (when client instructs lawyer not to report former lawyer who converted estate funds for own use, requirement of confidentiality supercedes obligation to report misconduct); Or. State Bar Ass'n, Bd. of Governors, Formal Op. 1991-95 (1991) (lawyer may not report misconduct of client's former lawyer when client requests that violations not be reported). Cf. Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 95-17 (lawyer's instruction that associate lawyer falsely date writ, summons, and complaint to avoid having suit barred by applicable statute of limitations must be reported promptly by associate to disciplinary authorities; involvement of lawyer with client in fraudulent activity violative of Rule 1.2(d) and Rule 8.4(c) cannot serve as shield against disclosure of that information pursuant to Rule 1.6).

"SUBSTANTIAL QUESTION" ABOUT HONESTY, TRUSTWORTHINESS OR FITNESS

Rule 8.3 obligates lawyers to report only those violations of the Model Rules that raise "a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects . . ." "Substantial" is defined generally as "a material matter of clear and weighty importance." *Model Rules of Professional Conduct*, Preamble, Scope and Terminology (1995). See, Geoffrey C. Hazard, Jr., and W. William Hodes, *The Law of Lawyering* § 8.3:201, at 941 (1993 Supp.) ("[a] substantial violation of the rules alone is not enough; the violation must be of such a nature that the conduct raises a 'substantial' question about the fitness of the offending lawyer to carry out his professional

role"). The phrase "honesty, trustworthiness or fitness as a lawyer in other respects" is not limited to criminal behavior, but otherwise dovetails with the language of Rule 8.4(b). For elucidation of the phrase, therefore, case law discussing Rule 8.4(b) will be helpful. *See, e.g.,* Ariz. State Bar, Op. 87-26 (1986) (willful failure to file income tax returns is criminal act reflecting adversely on lawyer fitness within meaning of Model Rule 8.4(b), and thus triggers reporting requirement); Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 95-17 (lawyer's instruction that associate lawyer falsely date writ, summons, and complaint to avoid having suit barred by applicable statute of limitations must be reported promptly by associate to disciplinary authorities; violations alleged include fraudulent behavior and run directly to issue of lawyer's honesty, trustworthiness, and fitness to practice law); D.C. Bar, Legal Ethics Comm., Op. 246 (1994) (although willful or unexcused failure to file suit within applicable limitations period may constitute basis for sanctioning lawyer for incompetence or neglect, one-time negligent failure to comply with limitations period, without more, would not seem to evidence lack of fitness to practice law).

REPORTING MISCONDUCT TO GAIN ADVANTAGE

The Model Rules of Professional Conduct do not expressly prohibit threatening, making, or filing disciplinary charges against opposing counsel to gain an advantage in a civil case. Such conduct, however, is constrained by a lawyer's obligation to report certain professional misconduct under Rule 8.3, general prohibitions under Rule 8.4, general limits on advocacy, and criminal law prohibiting extortion. *See* ABA Comm. on Ethics and Professional Responsibility, Formal Op. 94-383 (1994) (Model Rules prohibit lawyers from threatening to file disciplinary complaints or reports against opposing counsel to induce agreement to settle or to gain advantage in civil cases); N.Y. State Bar Ass'n, Comm. on Professional Ethics, Op. 635 (1992) (patently improper for lawyer to make report of misconduct solely to gain tactical advantage in matter).

TIMING OF REPORTING

Rule 8.3 does not specify the timing of reporting a lawyer's misconduct. For guidance in this regard, *see U.S. v. Cantor*, 897 F. Supp. 110 (S.D.N.Y. 1995) ("DR 1-103(A) must be read to require reporting to an appropriate authority within a reasonable time under the circumstances"; in denying defendant lawyer's motion to suppress his statements to government informant, former board of education lawyer, on ground that government lawyers violated DR 1-103(A) by failing to disclose informant's unethical conduct as lawyer, court held that state interest furthered by immediate reporting of unethical conduct was antithetical to federal interests to extent immediate reporting would jeopardize federal criminal investigation of defendant lawyer for bribery); ABA Comm. on Ethics and Professional Responsibility, Formal Op. 94-383 (1994) (suggesting that misconduct raising substantial questions about a lawyer's honesty, trustworthiness, or fitness should be reported promptly and not be used as bargaining chip in civil case; on other hand, misconduct not required by Rule 8.3(a) to be reported and not within jurisdiction of trial court where civil matter pending usually can, and should, be postponed to conclusion of civil proceeding); Conn. Bar Ass'n, Comm. on Professional Ethics, Informal Op. 95-17 (lawyer's instruction that associate lawyer falsely date writ, summons, and complaint to avoid having suit barred by applicable statute of limitations must be reported promptly); N.D. State Bar Ass'n, Ethics Comm., Op. 42 (1990)

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(lawyer must "immediately" report opposing counsel who violated ethics rules and may not wait until completion of proceeding, even if others reported the misconduct); Ass'n of the Bar of the City of N.Y., *Comm. on Professional Ethics, Op. 1990-3* (1990) (although reporting must be "prompt," some delay may be warranted to protect client's interest; lawyer should balance severity of misconduct and likelihood of its repetition against degree of prejudice to client if prompt reporting).

A JUDGE'S DUTY TO REPORT LAWYER MISCONDUCT

Judges, as lawyers, are also bound by the duty to report lawyer misconduct. This duty is reinforced by Canon 3(D)(2) of the Model Code of Judicial Conduct (1990), which states that

[a] judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.

For cases involving lawyer misconduct and in which disciplinary action was initiated by a judge, see *In re Maurice*, 167 B.R. 114 (Bankr. N.D. Ill. 1994) (bankruptcy court "duty bound" to report unprofessional conduct by lawyer to federal and state bar authorities; court rejected lawyer's subsequent contention that court violated rules of strict confidentiality by referring his conduct to bar authorities in Memorandum and Opinion instead of in more discreet manner); *In re Breen*, 830 P.2d 462 (Ariz. 1992) (trial judge in malpractice case brought by lawyer's clients reported lawyer's conflicts of interests to disciplinary authorities); *In re Order as to Sanctions*, 495 So. 2d 187 (Fla. Dist. Ct. App. 1987) (notice given that sanctions for willful misconduct by lawyers will be imposed, recorded with court, and circulated to all judges); *Blacknell v. State*, 502 N.E.2d 899 (Ind. 1987) (lawyer made statement to newspaper in violation of DR 7-107); *Louisiana State Bar Ass'n v. Edwards*, 387 So. 2d 1137 (La. 1980) (creation of false evidence); *In re Rabb*, 415 A.2d 1168 (N.J. 1980) (judge discovered lawyer's alteration of document during settlement conference); *Cincinnati Bar Ass'n v. Gebhart*, 431 N.E.2d 1031 (Ohio 1982) (misrepresentations in court); *In re Kennedy*, 309 N.W.2d 843 (Wis. 1981) (failure to respond to judge's letters inquiring about status of case and failure to appear at hearing); *In re Krueger*, 307 N.W.2d 184 (Wis. 1981) (counseled client to give false address). See generally Levy, *The Judge's Role in Enforcement of Ethics—Fear and Learning in the Profession*, 22 Santa Clara L. Rev. 95 (1982) (suggesting that appellate judges include discussion of ethical issues and statement of referral to appropriate agency for investigation in written opinions issued by court); Thode, *The Duty of Lawyers and Judges to Report Other Lawyers' Breaches of Standards of the Legal Profession*, 1976 Utah L. Rev. 95, 99. See also *Mississippi Bar v. Attorney G*, 630 So. 2d 344 (Miss. 1994) (dissenting opinion chides judge [and district attorney] for not reporting lawyer who tendered guilty pleas to felony of accepting campaign contribution from utility company while lawyer was candidate for office of Public Service Commissioner); Ill. Judicial Ethics Comm., *Op. 95-10* (1995) (judge required to report to bar authority lawyer who testifies in court that he or she used cocaine); Ill. Judicial Ethics Comm., *Op. 94-10* (1994) (judge not required to report lawyer to bar authority after having found lawyer in direct criminal contempt of court).