RULE 6 | COMMITTEE ON ATTORNEY ADMISSIONS, PEER REVIEW, AND ATTORNEY GRIEVANCE

(a) Establishment and Membership. There shall be an Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance (the "Committee"). The Committee shall consist of attorneys practicing within this District. The Chief Judge, or one or more members of the Court appointed by the Chief Judge, shall appoint the members of the Committee. In addition to other considerations given by the Court to establish a Committee that reflects the diversity of the Bar of the Court, the geographic location of the members should also be weighed in the Court's selection of members of the Committee. The members shall serve renewable terms of three (3) years and shall be staggered so that one third of the members' terms expire each year. The Chief Judge shall select the Committee Chair. Selections shall be made by Administrative Order entered by the Chief Judge. All persons appointed to the Committee shall serve at the pleasure of the Court. The Committee shall not exceed twenty-five (25) members.

(b) Purpose. Subject to the direction of the Court, the Committee shall have the authority and perform the functions assigned by these Rules and shall otherwise assist the Court in the implementation and evaluation of these Rules. The Committee may under no circumstances initiate and investigate such matters without prior referral by the Court.

(1) *Peer Review*. It is recognized that the Court and the bar have a joint obligation to improve the level of professional performance in the courtroom. To this end, one of the Committee's primary functions is to determine whether individual attorneys are failing to perform to an adequate level of competence necessary to protect the interests of their clients. In furtherance of that objective, the Committee shall have the authority to establish and administer a remedial program designed to raise the competence of an attorney who is not performing adequately; to refer an attorney to appropriate institutions and professional personnel for assistance in raising his or her level of competency; to determine, through evaluation, testing, or other appropriate means, whether an attorney who has been referred for assistance has attained an adequate level of competency; and to report to the Court any attorney who refuses to cooperate

by participating in a remedial program to raise the attorney’s level of competence, or fails to achieve an adequate level of competence within a reasonable time.

(2) *Attorney Discipline*. The other primary function of the Committee shall be to conduct investigations of alleged misconduct of any attorney—whether a member of the Bar of this Court or not; to conduct and preside over disciplinary hearings when appropriate and as hereinafter provided; and to submit written findings and recommendations for appropriate action by the Court, except as otherwise described herein.

(A) Standards for Professional Conduct. Acts and omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct, Chapter 4 of the Rules Regulating The Florida Bar, shall constitute “misconduct” and shall be grounds for discipline, whether the act or omission occurred in the course of an attorney/client relationship. Attorneys practicing before this Court shall be governed by this Court’s Local Rules and by the Rules of Professional Conduct, except as otherwise provided by specific Rule of this Court.

(B) Discipline. Discipline for misconduct defined in these Rules may consist of (1) disbarment, (2) suspension, (3) reprimand, (4) monetary sanctions, (5) removal from this Court’s roster of attorneys eligible for practice before this Court, or (6) any other sanction the Court may deem appropriate.

(C) Court’s Retention of Inherent Power. Nothing contained in these Rules shall be construed to deny the Court its inherent power to maintain control over the proceedings conducted before it or to deny the Court those powers derived from statute, rule, or procedure. When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, the Supreme Court of Florida, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the Committee; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

(c) Procedures.

(1) *Internal Referral*. Any District Judge, Magistrate Judge, or Bankruptcy Judge may, in the Judge's discretion, refer in writing to the Committee the name of any attorney the Judge observed practicing law in a manner which either: (a) raises a significant question as to the adequacy of such attorney's ability to represent clients in a competent manner (See Rule 6(b)(1) Peer Review); and/or (b) whose acts or omissions may violate the Standards for Professional Conduct (See Rule 6(b)(2)(A)). Each referral shall document the facts of the matter, with the Committee having the discretion to determine the type of review after its initial investigation unless the referral so directs.

(2) *Investigation and Proceedings*. Promptly after receipt of such a referral the Chairperson of the Committee shall select an Investigative Committee consisting of at least three members of the Committee. The Investigative Committee may request that the attorney meet with it informally to explain the circumstances which gave rise to the referral and may conduct such inquiries as it deems appropriate. Following the initial inquiry, the Investigative Committee shall report its findings and recommendations to the Committee and the Committee may, at its discretion, further investigate, including but not limited to having the attorney appear before the Committee. If the Committee determines that additional investigation is not warranted the Committee shall document the findings in writing and close the investigation. No further action shall be taken unless the Court takes exception to the findings. Upon closing a matter the Chairman shall notify the referring Judge, Chief Judge, Clerk of Court, and the attorney. Otherwise the matter shall proceed to peer review or disciplinary

proceedings as further described in subsections (A) and (B) below.

(A) Peer Review –

i. If the Committee determines that the attorney's conduct raises a significant question as to the adequacy of such attorney's ability to represent clients in a competent manner, it shall report its findings to the Chief Judge, Clerk of Court, and the attorney and describe the recommended remedial program designed to raise the competence of the attorney. The remedial program can include, but is not limited to, ordering mandatory participation in continuing legal education programs and participation in group and individual study programs, referring the attorney to appropriate institutions and professional personnel for assistance in raising his or her level of competency, requiring the attorney obtain co-counsel in matters before the Court, and, if the attorney's lack of competency relates to drug or alcohol abuse, requiring the attorney to seek treatment for that condition and requiring the attorney to submit periodic reports from the individuals responsible for such treatment.

ii. If the attorney objects to the Committee's findings or recommendations, the attorney shall have the right to, within fourteen (14) days of receipt of the Committee's findings and recommendations, serve a written response seeking revision or revocation of, or suggesting alternatives to, the findings or proposed recommendations. The Committee shall consider the attorney's response and thereafter shall issue its final Report and Recommendation to the Court.

iii. The Committee is authorized to monitor the attorney's progress to ensure that it is consistent with the Court's Order adopting the Committee's Report and Recommendation, in whole or in part, and may make such interim reports or periodic reports relative to its activities as requested by the Court. Upon completion of the Committee's activities in respect to each attorney referred by the Court, the Committee may file and serve a supplemental Report and Recommendation to the Court. The Supplemental Report and Recommendation shall include documentation as to the Committee's evaluation, testing, or other appropriate means used to determine whether the attorney has attained an adequate level of competency or if the attorney fails to achieve an adequate level of competency within a reasonable time. If the Committee finds that the attorney has not complied with the Court's order and there is a substantial likelihood that the attorney's continued practice of law may result in serious harm to the attorney's clients, the Committee may undertake disciplinary proceedings pursuant to section (B), infra.

(B) Discipline –

i. If the Committee determines that probable cause exists to support a finding that the attorney has violated the Standards for Professional Conduct it shall provide the attorney with a written Report and Recommendation specifying: (1) its findings of fact supporting a finding of misconduct; and (2) its proposed recommendations as to the disciplinary measures to be applied by the Court. The Report and Recommendation shall also notify the attorney of the attorney's rights and obligations under these Rules.

ii. An attorney who objects to the Committee's Report and Recommendation shall have the right to, within fourteen (14) days of receipt of the Committee's Report and Recommendation, serve a written response seeking revision or revocation of, or suggesting alternatives to, the recommendation, and/or requesting a hearing before the Committee.

iii. If the attorney does not serve a written response within fourteen (14) days, the Committee shall file and serve its Report and Recommendation with the Court, noting that the attorney failed to respond, and shall apply to the Court for the issuance of an order requiring the attorney to show cause within fourteen (14) days after service of that order why the attorney should not be disciplined.

iv. If the attorney serves a written response and requests a hearing, the Committee may, in its discretion, hold a hearing. If no hearing is requested, the Committee shall review the response and make a final Report and Recommendation to the Court. If the attorney fails to appear at the hearing, then the Committee shall take the steps outlined in subsection (B)(iii), supra. If the attorney does appear for the hearing, the attorney shall be entitled to be represented by counsel, to present witnesses and other evidence on his or her behalf, and to confront and cross examine witnesses against the attorney. The attorney does not have the right to confront or cross examine members of the Court or members of the Committee. The disciplinary proceedings before the Committee shall be guided by the Federal Rules of Evidence. The Committee may call the accused attorney as a witness to make specific and complete disclosure of all matters material to the charge of misconduct unless the attorney asserts a privilege or right properly available to the attorney under applicable federal or state law. Upon the conclusion of the hearing, the Committee shall file and serve a final Report and Recommendation to the Court.

v. Upon receipt of the Committee’s final Report and Recommendation, the Chief Judge shall issue an order requiring the attorney to show cause within fourteen (14) days why the Committee’s final Report and Recommendation should not be adopted by the Court. The Chief Judge may, after considering the attorney’s response, by majority vote of the active District Judges thereof, adopt, modify, or reject the Committee’s findings that misconduct occurred, and may either impose those sanctions recommended by the Committee or fashion whatever penalties provided by the rules which it deems appropriate.

(3) *Relationship Between Peer Review and Attorney Discipline Functions and Procedures*. Unless otherwise ordered by the Chief Judge, the Committee has discretion to proceed with peer review or undertake disciplinary action. This discretion continues throughout the proceedings to allow the Committee to elevate a peer review action to a disciplinary action or vice versa depending on the facts discovered during the investigation. At any time a State or Federal Bar is investigating the same or similar action of the attorney under review by the Committee, upon review, the Committee may recommend to the Court to stay the proceedings pending the resolution of the investigation. If the Court approves of the stay, the attorney must notify the Court by written notice when the investigation is concluded. Any deadlines imposed under these rules will resume upon receipt of the notice.

(4) *Timing*. Within one hundred and eighty (180) days of receipt of the referral, unless additional time is requested for good cause, the Committee must have submitted its final Report and Recommendation to the Court, setting forth, inter alia, the procedures undertaken and under which rule; what standards of professional conduct have been violated, if any, or competency questioned; recommendations as to remedial or disciplinary measures to be applied; and a recommendation regarding the next steps that the Court should take. The Committee shall include its findings of fact as to the charges of misconduct, recommendations as to whether or not the accused attorney should be found guilty of misconduct justifying disciplinary actions by

the Court, and recommendations as to the disciplinary measures to be applied by the Court. The Report and Recommendation shall be accompanied by a transcript of the proceedings before the Committee, all pleadings, and all evidentiary exhibits.

(5) *Interim Restrictions on Practice*. If the Committee finds that there is a substantial likelihood that the attorney's continued practice of law may result in serious harm to the attorney's clients pending completion of an investigation, it may recommend that the Court limit or otherwise impose appropriate restrictions on the attorney's continued practice in the District Court.

(d) Immunity. Any Committee determination that a referred attorney is adequately competent does not render the Committee potentially liable as a guarantor of the validity of that determination. The Committee is not liable for the misconduct or nonconduct of any referred attorney. Unauthorized disclosure of confidential information is outside the scope of the Committee's responsibilities. The members of the Committee, while serving in their official capacities, shall be considered to be representatives of and acting under the powers and immunities of the Court, and shall enjoy all such immunities while acting in good faith and in their official capacities.

(e) Obligation to Cooperate With Committee. Any member of the bar of this Court, who is referred to the Committee for any reason shall regard it to be an obligation as an officer of this Court to cooperate fully with the Committee, which constitutes an official arm of the Court. Any failure to cooperate and/or to meet any deadline imposed by the rules, the Committee, or the Court, without good cause shown, will be reported to the Chief Judge and recorded in the records of the Committee and may constitute separate grounds for suspension or disbarment.

(f) Confidentiality. All matters referred to the Committee, all information in the possession of the Committee and all recommendations or other actions taken by the Committee are matters relating to the administration of the Court and shall be confidential, and shall be disclosed only by order of the Court. Correspondence, records and all written material coming to the Committee shall be retained in an office designated by the Court and are documents of the Court and shall be kept confidential unless the Court directs otherwise. No statement made by the attorney to the Committee shall be admissible in any action for malpractice against the attorney, nor shall any part of the Committee's investigative files be admissible in such proceedings. No statement made by the attorney to the Committee shall be admissible in any 28 U.S.C. §2255 collateral attack for incompetency of counsel in a criminal case, nor shall any part of the Committee's investigative files be admissible in proceedings under 28 U.S.C. §2255. Likewise, any information given by a client of the attorney to the Committee shall be privileged to the same extent as if the statements were made by the client to the attorney.

(g) Notice. All referrals, orders, and recommendations shall be provided to the Chief Judge, referring judge, attorney, and the Clerk of Court, unless otherwise specified. Any resulting orders shall be served in accordance with Rule 16.

Effective December 1, 1994. Amended effective April 15, 1996; April 15, 2002; April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019.