

Understanding Attorneys' Obligations Regarding Title Insurance Roles

Hear a moderated dialogue dissecting the practical implications

In a December 15, 2022, article on the Office of Bar Counsel website, it was submitted that providing title insurance in connection with a real estate closing is subject to Rule 1.8(a) of the Massachusetts Rules of Professional Conduct. The practical implications of this interpretation of the rule are that:

- The terms of the transaction must be fully disclosed in an understandable manner to the client in writing.
- The client must be advised in writing sufficiently in advance of the closing of the desirability of seeking the advice of independent legal counsel and given a reasonable opportunity to do so.
- The client must give "informed consent" in writing to the "essential terms of the transaction" and the lawyer's role "including whether the lawyer is representing the client in the transaction." In the view of Bar Counsel, the "essential terms of the transaction" include disclosure of the portion of the title premium received by the attorney.

The March 7, 2023, issue of the *BBO Sign Posts* newsletter cautions that:

"Whether it's the sale of title insurance or any other business transaction with a client, lawyers who fail to comply with the disclosure and consent provisions of Mass. R. Prof. C 1.8(a) risk disciplinary action . . . Among other things, Rule 1.8 requires that the terms of the transaction be objectively fair and reasonable, that lawyers make full disclosure of the terms in writing, that they advise the client of the desirability of seeking independent legal counsel, and that they obtain the client's informed consent in writing."

Attend to hear a moderated dialogue between Assistant Bar Counsel and a seasoned conveyancer dissecting the implications of this interpretation.

Agenda

- Overview of Rule 1.8 of the Massachusetts Rules of Professional Conduct
- How Rule 1.8 Affects Conveyancers
- Requirements of Disclosure in Initial Fee Agreement
- Requirements of Obtaining Informed Consent from the Client in a Signed Written Document
- "Ask the Experts" Q&A Session

Faculty

Hon. Bonnie H. MacLeod (Ret.), *Superior Court, Commonwealth of Massachusetts*, Chair
Conrad J. Bletzer, Jr., Esq., *Bletzer & Bletzer, PC, Brighton*

Robert M. Daniszewski, Esq., *Assistant Bar Counsel, Office of Bar Counsel, Massachusetts Board of Bar Overseers, Boston*



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Dates & Location

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Friday, May 10, 2024
12:00 pm–2:00 pm
Program # 2240158WBC

REBROADCAST

Tuesday, May 28, 2024
9:00 am–11:00 am
Program # 2240158RB1

REBROADCAST

Wednesday, June 5, 2024
2:00 pm–4:00 pm
Program # 2240158RB2

ON DEMAND WEBCAST

View after Wednesday, June 5, 2024
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