

## RESOLUTION 08-01-2006

### DIGEST

#### Conference of Delegates: Censuring Public Officials

Amends the “germaneness” section of the Conference rules to allow the Conference to call for the investigation of public officials’ conduct for ethical and legal violations.

### TEXT OF RESOLUTION

RESOLVED: that this Conference strongly recommends to the Board of Directors of the Conference of Delegates of California Bar Associations amend the “germaneness” section of Rules to read as follows:

- 1 (3) Germaneness
- 2 The Conference shall consider only those matters that are germane to its mission and its
- 3 goals.
- 4 (a) Mission
- 5 The mission of the Conference of Delegates of California Bar Associations is to
- 6 serve justice in California by bringing together attorney volunteers from across the State
- 7 representing diverse backgrounds, experience, and expertise to seek, debate, and promote
- 8 creative, non-partisan solutions to law-related issues.
- 9 (b) Goals
- 10 The goals of the CDCBA are:
- 11 (i) To serve as the voice of the assembled voluntary bar associations of the State of
- 12 California through Conference action.
- 13 (ii) To promote improvements in the California and American systems of justice.
- 14 (iii) To promote meaningful access to legal representation and the justice system for
- 15 all persons regardless of their economic or social condition.
- 16 (iv) To provide leadership in improving the law to serve the changing needs of
- 17 society.
- 18 (v) To promote public understanding of and respect for the law, legal process and the
- 19 role of the legal profession.
- 20 (vi) To promote the highest standards of professionalism, competence and ethical
- 21 conduct.
- 22 (vii) To promote professional growth and to enhance the quality of life of the legal
- 23 and judicial community.
- 24 (viii) To advance the rule of law.
- 25 (ix) To promote full and equal participation in the legal profession by all individuals
- 26 without regard to race, gender, religion, national origin, sexual orientation, or economic
- 27 circumstances.
- 28 (x) To preserve and enhance the ideal of the legal profession as a service profession
- 29 and its dedication to public service.
- 30 (xi) To preserve the independence of the legal profession and of the judiciary as
- 31 fundamental to a free society.
- 32 (xii) To implement by legislative action or by other appropriate means matters the
- 33 CDCBA, through its delegates, deems to be important to promote its mission and goals.

34           (c) The CDCBA shall not ~~consider any matter or otherwise engage in any activity~~  
35 ~~involving the selection, nomination, election, appointment, or retention of any individual to~~  
36 ~~any federal, state or local office, or involving the censure of any federal, state or local office~~  
37 ~~holder. Nor shall the CDCBA take any action that may adversely affect the status of the~~  
38 organization as a tax exempt entity under Section 501(c)(6) of the Internal Revenue Code  
39 and applicable federal and state tax provisions of California law.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: National Lawyers Guild, San Francisco Bay Area Chapter

#### STATEMENT OF REASONS

Existing Law: In 1982 then San Diego Mayor Pete Wilson, a member of the California Bar, and a nominee for the United State Senate, stated that he would “start a recall” of Chief Justice Rose Bird if the California Supreme Court held unconstitutional Proposition 8, the “victims rights” initiative (now incorporated into the Penal Code). The State Bar’s Conference of Delegates, Board of Governors and several local bar associations passed resolutions and issued public statements criticizing Mayor Wilson as a California lawyer for his attack on the independence of the judiciary. When Pete Wilson became governor, supporters and members of his administration raised a question as to the propriety of State Bar criticism of office holders or would-be office holders. Governor Wilson’s veto of State Bar dues was the result. The Board of Governors then adopted subsection (c) which has been carried over by the CDCBA.

This Resolution: This resolution reinstates the Conference’s right to identify and call for investigation of actions of public officials and persons seeking public office for possible violations of law and/or ethics; and where deemed appropriate by this Conference, to call for appropriate action. It narrows the scope of subsection (c) to questions of criminal misconduct while in office, using state money for unlawful or unethical purposes or using public office for other unlawful and/or unethical actions.

The Problem: Section (3)(c) currently contradicts Section (3)(b) of the CDCBA Rules.

Public officers, elected or appointed, who engage in criminal actions or actions unethical under the applicable code of ethics for that office should be subject to investigation to determine the fact and nature of such behavior and the appropriate action, if any. California lawyers, through this conference, have the duty and the obligation, to bring such actions to the attention of the California Bar, the Legislature, and the citizens of California.

#### IMPACT STATEMENT

This resolution does not affect any law, statute, or other rule.

AUTHOR OR PERMANENT CONTACT: Doris Brin Walker, c/o Richard P. Koch, 760 Market St. Suite 524, San Francisco, CA 94102. Telephone: 415-282-3272 or 415-397-1060 Fax: (415) 397-3077, email [rpkoch@dnai.com](mailto:rpkoch@dnai.com)

RESPONSIBLE FLOOR DELEGATE: Richard P. Koch