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Report of Legal Fee Review Committee to the Colorado Bar Association

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life and lives of family members would be endangered thereby, or if ill will and hostility of the community would be the inevitable result.⁴⁸

It may be urged that if the individual is not required to reveal himself when he speaks and does not accept the responsibility for what he says, the community will not be able to protect itself from injurious frauds, libels and obscenity that would result.⁴⁹ The aims of the Los Angeles ordinance may have indeed been worthy ones, but the fact that the liberties may be abused by a miscreant few does not make any less the necessity of immunity of the individual from previous restraint.⁵⁰ It must be remembered that the Bill of Rights was added to the original Constitution in the conviction that too high a price may be paid even for the unhampered enforcement of the law and that, in its attainment, other social objects of a free society should not be sacrificed.

Richard W. Laugesen.

BAR BRIEFS

REPORT OF LEGAL FEE REVIEW COMMITTEE TO THE COLORADO BAR ASSOCIATION

Gentlemen:

The Colorado Bar Association, at its 1959 annual meeting, authorized the creation of a Legal Fee Review Committee, to serve the public, clients and attorneys, in the adjustment of controversies concerning legal fees, without resort to the costly, protracted and drastic remedies previously available. That Committee has been organized recently and is now in functioning order.

The services of the Committee are available to all clients of all lawyers actively engaged in practice in Colorado, whether members of the Association or not and to the lawyers themselves.

The Committee is composed of one member of the Colorado Bar Association from each judicial district in Colorado appointed by the President of the Association. To insure continuity, one-third of the Committee serves for one year, one-third for two years, and one-third for three years. It meets as determined by the Committee or upon call of the Chairman, who is appointed for a period of one year by the President of the Association.

The Committee functions in the following manner. A complaint in a controversy over legal fees is filed by either the client or the attorney with the Colorado Bar Association. The Secretary immediately notifies both parties that the matter will be held in abeyance for 30 days to allow the parties an opportunity to settle their differences. Upon notice by either party that the controversy has not been settled within the 30-day period, it is then referred to the Com-

⁴⁸ NAACP v. Alabama, 357 U.S. 449, 462 (1958); People v. Talley, 332 P.2d 447, 453 (Cal. App. 1958) (dissenting opinion).

⁴⁹ The state contended that the ordinance was aimed at prevention of "fraud, deceit, false advertising, negligent use of words, obscenity and libel," 80 Sup. Ct. 536, 539 (1960).

⁵⁰ Near v. Minnesota, 283 U.S. 697, 720 (1931).

mittee for action, not however, until both parties have executed a brief Referral Agreement, in which it is agreed that the matter be referred to the Committee for investigation and final and conclusive determination, that the parties will assist the Committee in every manner in its investigation, and that they will abide by the determination of the Committee.

The Chairman of the Committee then appoints an investigating committee of three members who are selected from a panel of all members of the Colorado Bar Association residing in the appropriate judicial districts. To better insure fair and impartial judgment, if client and attorney reside, or client resides and attorney has an office in the same judicial district, the investigating committee is selected from the panel of that judicial district. If the attorney's office is in one judicial district, and the client resides in another, one member of the committee is chosen from each such judicial district, and the third member from another judicial district. There are similar provisions in the event the client is a corporation or is a non-resident of the state.

The investigating committee examines the parties to the controversy, interviews witnesses and makes such other investigation as it deems appropriate. When the investigation has been concluded, the findings and recommendations of the Investigating Committee are forwarded to the Chairman of the Legal Fee Review Committee. This Committee reviews the action of the Investigating Committee and makes a written determination and decision as to whether the fee complained of should be approved or disapproved and decreased. Further hearings before the Committee may be had if deemed advisable. The determination of the Committee may include a finding that a greater fee would have been justified, and a finding as to the amount of a proper fee. Such two last mentioned findings are not mandatory and are not binding on the parties. The final decision of the Committee is submitted to the Secretary of the Colorado Bar Association, who forwards copies to the parties to the controversy, and to the Chairman of the Investigating Committee, and as stated, the decision is binding upon the parties to the controversy.

The Committee may decline to accept jurisdiction, or may surrender the same, if it becomes apparent that there is no just ground for complaint or dispute, that the matter is moot, or if for any other reason deemed adequate, jurisdiction is, or becomes unwarranted.

In reaching decisions, the Committee and the Investigating Committee may consider appropriate minimum fee schedules and all other pertinent factors, and shall consider all related matters in the Canons of Ethics of the American Bar Association. The Committee shall be guided by the recommendations of the Investigating Committee, but shall not be bound thereby.

All matters in connection with each controversy are to be held in confidence by the members of the Committees and the officers of the Colorado Bar Association, so far as is reasonably possible.

Respectfully submitted,

HENRY S. SHERMAN, Chairman