



NEW JERSEY STATE BAR ASSOCIATION

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Katy Englehart
American Bar Association
Office of the President
321 N. Clark Street
Chicago, IL 60610

Re: The ABA Commission on the Future of Legal Services –
Comments on Issues Paper Re: Alternative Business Structures

Dear Ms. Englehart:

On behalf of the New Jersey State Bar Association (NJSBA), I once again thank the Commission for the opportunity to provide comments on the issues being considered. A robust public discussion about the pros and cons of proposals is critical to finding the right path forward, which the association knows is at the heart of the Commission's meaningful work.

The consideration of alternative business structures has a long and storied history in the legal profession. To date, most U.S. jurisdictions, including New Jersey, have not embraced the concept, as it is antithetical to the public's interest and to the core values of the legal profession, most notably a lawyer's duty of undivided loyalty, independent judgment, absolute confidence and avoidance of conflicts of interest. That is why the ABA's Model Rules of Professional Conduct, adopted by most jurisdictions, including New Jersey, contain a prohibition against sharing legal fees with a non-lawyer, noting concerns about the potential to compromise the ability of attorneys to use independent and professional judgment in zealously advocating on their client's behalf.

The NJSBA has voiced its opposition to permitting the non-lawyer ownership of law firms in any fashion on numerous occasions in the past. In 1999, it formed its own Ad Hoc Committee on Multidisciplinary Practice, which concluded that while the concept appeared promising on its face any promise is outweighed by inherent conflicts and unworkable practice arrangements that will offer no real benefit to consumers of legal services. In the ensuing 17 years and despite the various studies cited in the Commission's Issues Paper, the NJSBA has not seen any evidence or compelling argument to warrant altering its position.

Quite simply, the NJSBA believes that the issue of alternative business structures in the legal profession has been widely studied, debated, and settled. In fact, the ABA, with near unanimous support from the House of Delegates, reaffirmed its long-standing policy against non-lawyer ownership of law firms as recently as the Midyear Meeting this past February. The public

has been and continues to be well-served by the longstanding roles and responsibilities of attorneys in the ownership of law firms. There is no need for non-attorneys to acquire ownership interests in firms, or any evidence that firms are in danger of losing access to complementary professional services if an ownership interest is not made available.

There can be no doubt that the public interest and integrity of the profession is best served when lawyers are owners of law firms. The NJSBA urges the Commission to not rehash settled concepts but rather focus its mission on developing recommendations for the legal profession to meet the current issues associated with access to legal services in ways that serve the public interest, provide equal justice for all and do not undermine and abandon the profession's core values on which the ABA has stood since its inception.

Very truly yours,

A handwritten signature in black ink, appearing to read "Miles S. Winder III", followed by a horizontal line with three short strokes underneath.

Miles S. Winder III, Esq.
President

/sab

cc: Thomas H. Prol, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director