

# THE NATIONAL LEGAL FOUNDATION

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March 29, 2017

The Honorable Donald W. Beatty, Chief Justice  
The Honorable John W. Kittredge, Associate Justice  
The Honorable Kaye G. Hearn, Associate Justice  
The Honorable John Cannon Few, Associate Justice  
The Honorable George C. James, Jr., Associate Justice  
Supreme Court of South Carolina  
1231 Gervais Street  
Columbia, SC 29201

Via email only: rule8.4comments@sccourts.org

Re: Comments of The National Legal Foundation Opposing Adoption of ABA Model Rule 8.4(g)

Dear Chief Justice Beatty, Justice Kittredge, Justice Hearn, Justice Few, and Justice James:

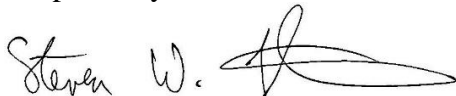
The National Legal Foundation (NLF) writes in support of the recommendation made by the South Carolina Bar House of Delegates opposing adoption of the referenced model rule.

The NLF is a public interest law firm dedicated to the defense of First Amendment liberties and the restoration of the moral and religious foundation on which America was built. We endorse the reasons expressed by the House of Delegates, including the reference (in footnote 3 of the memorandum prepared by the Bar's Professional Responsibility Committee) to comments submitted to the ABA on March 3, 2016, by the Christian Legal Society.

Concerns about the vagueness and overbreadth of the model text have been widely expressed (see, for example, Professor Josh Blackman's article, "Reply: A Pause for State Courts Considering Model Rule 8.4(g)" in the *Georgetown Journal of Legal Ethics*, Vol. 30, 2017 ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2888204](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2888204))). As drafted, the ABA's model text would unconstitutionally infringe the rights of the members of South Carolina's bar and would set a disturbing precedent for undermining the First Amendment.

Thank you for the opportunity to provide this comment supporting the recommendation of the South Carolina Bar's House of Delegates that the ABA's model text for Rule 8.4(g) not be adopted as drafted, a position that we believe is shared by many members of the South Carolina Bar.

Respectfully,



Steven W. Fitschen, President  
National Legal Foundation