

CHECKLIST 2—FORMER CLIENT CONFLICT DISCLOSURE AND CONSENT

- ___ **1. Have You Been Asked to Represent a Current Client in a Matter Where the Current Clients' Interests Are Adverse to Those of a Former Client?**
 - If "yes," proceed to question 2.
 - If "no," disclosure and consent is not required.

- ___ **2. Does the Proposed Representation Involve the Same or Related Issues as Did the Representation of the Former Client (Matter-Specific Conflict)?**
 - If "yes," proceed to question 4.
 - If "no," proceed to question 3.

- ___ **3. Did Your Representation of the Former Client Provide You with Confidences or Secrets of That Former Client That Would or Would Likely Damage the Former Client (Information-Specific Conflict)?**
 - If "yes," proceed to question 4.
 - If "no," disclosure and consent is not required.

- ___ **4. Have You Discussed the Conflict Issues with All of the Clients?**
 - If "yes," proceed to question 5.
 - If "no," proceed to question 5, but consider the benefits of *confirming* the consent in writing instead of having the initial request come in letter form.

- ___ **5. Have You Prepared and Sent the Letters "Contemporaneously with Any Consent"?**
 - If "yes," proceed to question 6.
 - If "no," your consent may be invalid.

- ___ **6. Does Your Letter Plainly and Clearly Identify the Current and Former Client and the Matter-specific or Information-Specific Conflict That Exists?**
 - If "yes," proceed to question 7, but remember not to reveal any of the former client confidences to the current client.
 - If "no," work on the letter some more and repeat this question.

- **7. Does Your Letter Recommend That Each Client Seek Independent Counsel to Determine If Consent Should Be Given?**
 - If “yes,” proceed to question 8.
 - If “no,” work on the letter some more and repeat this question.

- **8. Are All Necessary Parties Sent a Letter, and Does it Include a Place for the Client to Sign the Consent and Return to You?**
 - If “yes,” proceed to question 9.
 - If “no,” work on the letter some more and repeat this question.

- **9. If There Are Special Issues That Are Part of the Consent, Such as Who Will Work on the Matter, Are These Discussed in the Letter?**
 - If “yes,” you are done and have complied with DR 10-101(B).
 - If “no,” work on the letter some more and repeat this question.