

COMMONWEALTH OF MASSACHUSETTS

Supreme Judicial Court

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the twentieth day of March, in the year two thousand and twenty-five:

present,

<u>KIMBERLY S. BUDD</u>	)	Chief Justice
	)	
<u>FRANK M. GAZIANO</u>	)	
	)	
	)	
<u>SCOTT L. KAFKER</u>	)	Justices
	)	
	)	
<u>DALILA ARGAEZ WENDLANDT</u>	)	
	)	
	)	
<u>SERGE GEORGES, JR.</u>	)	
	)	
	)	
<u>ELIZABETH N. DEWAR</u>	)	
	)	
	)	
<u>GABRIELLE R. WOLOHOJIAN</u>	)	

ORDERED: That Rule 3:07 of the Rules of the Supreme Judicial Court, which sets forth the Massachusetts Rules of Professional Conduct (Mass. R. Prof. C.), is hereby amended as follows:

Rule 3:07	By inserting the word "below" after the words "in paragraph (c)" and inserting the words "in a matter" after the words "shall not represent a client" in Mass. R. Prof. C. 1.16 (a).
Rule 3:07	By deleting the words "of a client" after the words "withdraw

from the representation" in Mass. R. Prof. C. 1.16 (a).

Rule 3:07 By deleting the word "or" at the end of Mass. R. Prof. C. 1.16 (a) (2).

Rule 3:07 By deleting the period at the end of Mass. R. Prof. C. 1.16 (a) (3) and inserting in lieu thereof "; or".

Rule 3:07 By inserting after Mass. R. Prof. C. 1.16 (a) (3) the following new subparagraph 1.16 (a) (4):

(4) the lawyer knows that the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a) (5) regarding the limitations on the lawyer assisting with the proposed conduct.

Rule 3:07 By deleting the word "employment" in both instances where it appears in Mass. R. Prof. C. 1.16 (c) and inserting in lieu thereof the words "the representation."

Rule 3:07 By deleting the word "employment" in Mass. R. Prof. C. 1.16 (d) and inserting in lieu thereof the word "engagement."

Rule 3:07 By deleting Mass. R. Prof. C. 1.16 comment 1 and inserting in lieu thereof new Mass. R. Prof. C. 1.16 comment 1, attached hereto.

Rule 3:07 By inserting the following three sentences at the end of Mass. R. Prof. C. 1.16 comment 2:

However, such a suggestion or other circumstances may warrant the lawyer's further inquiry into the facts and circumstances to assess the risk that the client seeks to use the lawyer's services to commit or further a crime or fraud. If the client persists in demanding that the lawyer counsel or assist in a crime or fraud, then under paragraph (a)(4) the lawyer must withdraw. See Rule 1.2(d), Comment 10.

Rule 3:07

By inserting new Mass. R. Prof. C. 1.16 comment 2A, attached hereto, after Mass. R. Prof. C. 1.16 comment 2.

The amendments accomplished by this order shall take effect on June 1, 2025.

ORDERED:

<u>KIMBERLY S. BUDD</u>	)	Chief Justice
	)	
<u>FRANK M. GAZIANO</u>	)	
	)	
<u>SCOTT L. KAFKER</u>	)	Justices
	)	
<u>DALILA ARGAEZ WENDLANDT</u>	)	
	)	
<u>SERGE GEORGES, JR.</u>	)	
	)	
<u>ELIZABETH N. DEWAR</u>	)	
	)	
<u>GABRIELLE R. WOLOHOJIAN</u>	)	

Rule 3:07, Mass. R. Prof. C. 1.16 comment 1:

[1] A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest or other violations of law, and to completion. A lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine whether such circumstances exist before beginning the representation or might arise during the representation. See Rule 1.7, Comment 3; Rule 5.1, Comment 2. For example, if during a representation new parties to a case or transaction become involved, an additional conflict check should be undertaken. Ordinarily, a representation in a matter is concluded when the services the lawyer has undertaken to perform have been completed. See Rules 1.1, 1.2(c) and 6.5. See also Rule 1.3, Comment 4.

Rule 3:07, Mass. R. Prof. C. 1.16 comment 2A:

[2A] A lawyer should be alert to signs that a client intends to use the lawyer's services for money laundering, terrorist financing activities or other similar criminal activity. Factors to be considered in determining the level of risk may include: (i) the lawyer's experience and familiarity with the client; (ii) whether the client is an entity, and, if an entity, who the beneficial owners of that entity are; (iii) the nature of or significant changes in the requested legal services; (iv) the relevant jurisdictions involved in the representation (for example, whether a jurisdiction is considered at high risk for money laundering or terrorist financing); and (v) the identities of those depositing into or receiving funds from the lawyer's trust account.

For example, if a client traditionally uses a lawyer to acquire local real estate through the use of domestic limited liability companies, with financing from a local bank, a duty of inquiry may arise if the same client asks the lawyer to create a multi-tier corporate structure formed in another state to acquire property in a third jurisdiction, and requests to route the transaction's funding through the lawyer's trust account. Such a request could indicate a money-laundering scheme, or a scheme to conceal assets or other illegal conduct.