

# ARNOLD & PORTER

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September 30, 1976

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Roderick M. Hills, Esq.  
Chairman  
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Dear Rod:

I have just been advised that you will be debating Monroe Freedman before the Bar Association. Unfortunately I will be out of town so I cannot be there to cheer you on.

However, I would like to present some possible ammunition for you.

1. Of course, principles of legal ethics here involved purport to relate to the morality of the bar but they really involve an attack on the morality of government officials.

This is not new. Some 25 years ago, Thurman Arnold testified on a somewhat similar proposal before a Senate Subcommittee. I am attaching a copy of the transcript which I guarantee you will enjoy reading.

Roderick M. Hills, Esq.

September 30, 1976

2. The Ethics Committee opinion shows no concern for, or even mention of, the interest of the client. Thus, suppose a legal assistant to a Commissioner is hired by a law firm and it turns out that pre-hiring inquiry did not turn up the fact that he had prepared some memoranda dealing with the merits of a pending case. Is the client to be deprived of the law firm's services for this reason? Is the client to be prejudiced by being required to retain new counsel to duplicate the work of old counsel over, perhaps, long periods of time at presumably doubled expense? Is ethics a question solely of protecting the lawyers role from misunderstanding by the public, or should it also be concerned with service to the client?

Lots of luck next Tuesday.

Cordially,



Milton V. Freeman

Enclosure

P.S. See Addendum

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Addendum.

The SEC staff itself has not always been sensitive on the issue of ability to use special skills.

In a case in Philadelphia, a staff member was explaining that if the Court granted an injunction and SEC 2(e) proceedings followed, this was not drastic because a 2(e) order would not involve general disbarment from practice but only from practice before the SEC; to which the Court replied:

"He's an SEC lawyer. What do you want him to do, start a divorce practice?"

The Court, of course, denied the injunction.

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