

IN THE TENNESSEE ALTERNATIVE DISPUTE RESOLUTION COMMISSION

Advisory Opinion No.: 2015-0001

The Commission received three questions from a Tennessee Rule 31 listed attorney/neutral. The questions have been modified for purposes of response within the context of Rule 31. For further guidance, the opinion of the Board of Professional Responsibility might be sought for comment concerning the applicability of RPC Rule 2.4.

Question 1 – May another attorney in the office of an attorney/mediator accept employment by a participant in a former mediation, conducted by the attorney/mediator?

Rule 31 speaks to the circumstances where the neutral might become involved in the matter that was the subject of the mediation. Section 10 (c) (1) directs the neutral to refrain from participation as attorney, advisor, judge, guardian ad litem, master, or in any other judicial or quasi-judicial capacity in the matter in which the Rule 31 ADR Proceeding was conducted.

The other members of the neutral’s firm are not addressed by Rule 31.

For further guidance, the opinion of the Board of Professional Responsibility might be sought for comment concerning the applicability of RPC Rule 2.4.

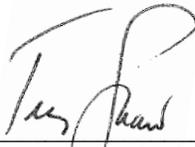
Question 2 – Does TSC Rule 31, Appendix A, Section 6, (b)(5) prohibit the neutral from accepting employment as a lawyer when requested by a former mediation participant?

The answer to this question is better addressed by a focus upon Section 10 (c)(1), as noted above.

Question 3 – May another member of the neutral’s firm bring an unrelated legal action against a person or entity that was a participant in a mediation?

This is not specifically addressed by Rule 31. However, the mediation information made known to the neutral must remain confidential. Section 10 (d) provides that Rule 31 Neutrals shall preserve and maintain the confidentiality of all information obtained during Rule 31 ADR Proceedings and shall not divulge information obtained by them during the course of Rule 31 ADR Proceedings without the consent of the parties, except as otherwise may be required by law.

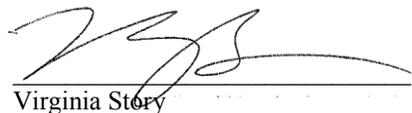
Date: June 30, 2015



Tracy Shaw, Chair of the TADRC Ethics
Advisory Opinion Committee



Linda Nettles Harris



Virginia Story