

PART IX. VIRGIN ISLANDS BAR

The territorial court, being the highest non-federal and local court of the Virgin Islands, shall govern the admission of all attorneys to the V.I. Bar, which shall consist of all attorneys, in whatever category, admitted to practice law in the territorial court of the Virgin Islands. The membership of the V.I. Bar shall consist of three (3) categories of attorneys, as follows:

1. Pro Hac Vice Admissions Attorneys admitted Pro Hac Vice pursuant to the provisions of Rule 301.

2. Special Admissions Government Attorneys specially admitted to practice pursuant to the provisions of Rule 302.

3. Regular Admissions Attorneys regularly admitted to practice pursuant to the provisions of Rule 304.

Rule 301. Pro Hac Vice admission

(a) An attorney not regularly or specially admitted to practice law in the Virgin Islands, and

(1) who is currently in good standing as an active member of the bar of any state or territory of the United States or of any foreign country;

(2) who has not suffered any disbarment or suspension of his or her license to practice in any jurisdiction;

(3) who has been retained or requested to represent any party in any legal matter in the Virgin Islands; and

(4) who has paid all appropriate membership dues and licensing fees may, in the discretion of the judge before whom a particular litigation has been assigned or is pending and on motion of a regularly admitted attorney of record in such litigation, be admitted pro hac vice to participate in that legal matter only. An attorney admitted pro hac vice shall be bound by the grievance procedures established for the Virgin Islands Bar and shall be subject to the disciplinary and contempt jurisdiction of this court in the course of his practice during his pro hac vice admission whether such disciplinary action is taken before or after termination or revocation of his admission pro hac vice. No attorney or law firm may appear pro hac vice in more than a total of three causes. The regularly admitted attorney of record shall be accountable to the territorial court for the timely prosecution of such causes and compliance with all applicable rules. Extended practice on a pro hac vice basis is hereby expressly prohibited and any attorney desirous of undertaking more than three (3) total appearances shall seek regular admission to the Bar in order to share the burdens of local practice.

(b) The motion for pro hac vice admission shall be accompanied by the Pro Hac Vice Questionnaire, supplied by the Clerk of the Court, which shall be completed by the applicant and served on counsel for all parties in the case with appropriate

certificate(s) of service attached.

(c) All pleadings filed by an attorney admitted pro hac vice shall be signed by local counsel and failure to do so shall result in the pleading being rejected.

Rule 302. Special Admission

(a) On motion on behalf of their departments or agencies, the V.I. Attorney General, the U.S. Attorney, the General Counsel of the Territorial Court, the Chief Legal Counsel of the Legislature of the Virgin Islands, the Chief Territorial Public Defender, the Federal Public Defender, the Supervising Attorney of Legal Services, or their authorized legal representatives, an attorney in good standing of the bar of any court of the United States, or of the highest court of any state, the District of Columbia, commonwealth, territory or possession of the U.S., who is not regularly admitted to practice before the Territorial Court of the Virgin Islands, and who is not under suspension or disbarment by any court, and who has paid all appropriate membership dues and licensing fees, may in the discretion of the court be Specially Admitted to practice law in the territorial court, but only in his capacity as an employee of the moving department or agency.

(b) Proof of good standing shall be in the form of a current Certificate of Good Standing bearing the original seal of the highest court of the jurisdiction in which admitted, which shall accompany the motion. Additionally, the court may require the submission of such other information as might be deemed necessary to satisfy itself as to the attorney's fitness to practice specially before the court. A Certificate of Good Standing from a

bar association is not sufficient for a Special Admission.

(c) An attorney specially admitted under this rule shall at all times be subject to the direction and control of the moving department or agency, which shall immediately notify the court of the termination of the attorney's employment. Upon receipt of said notification, the court shall enter an order vacating the special admission, provided, however, that the court may also terminate any special admission for cause or in the interest of justice, consistent with due process.

(d) An attorney specially admitted shall not hold himself out as a regular member of the Bar, and must promptly notify the court in writing of the termination of the employment upon which the special admission was based.

Rule 303. Professional responsibility and discipline

(a) Power and responsibility. The Territorial Court, in furtherance of its inherent powers and responsibility to supervise the conduct of all attorneys who are admitted to practice before it, hereby adopts the ABA's Rules of Professional conduct and Rules of Disciplinary Enforcement, superseding all of its other rules pertaining to disciplinary enforcement heretofore promulgated. In addition to other forms of discipline, the successful completion of the current Multi-State Professional Responsibility Examination (MPRE) may be required as a form of disciplinary sanction, where appropriate.

(b) Attorneys convicted of crimes.

1. Upon the filing with this court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, or any foreign country of a serious crime as hereinafter defined, the court shall enter an order immediately suspending that attorney whether the conviction resulted from a plea of guilty, or nolo contendere, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, or an executive pardon or commutation, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such

order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

2. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

3. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

4. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the court shall in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to the committee for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the convictions are concluded.

5. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the court may refer the matter to the committee for whatever action the committee may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no reference with respect to convictions for minor offenses.

6. An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

7. No disciplinary action against an attorney may be terminated by an executive or presidential pardon or commutation, nor may these rules be stayed or superseded thereby.

(c) Discipline imposed by other courts.

1. Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, or any foreign country, promptly inform the clerk

of this court of such action.

2. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court, this court shall forthwith issue a notice directed to the attorney containing:

A. a copy of the judgment or order from the other court; and

B. an order to show cause directing that the attorney inform this court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (4) hereof that the imposition of the identical discipline by the court would be unwarranted and the reasons therefor.

3. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

4. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (2) above, this court shall impose the identical discipline unless the respondent-attorney demonstrates, or this court finds, that upon the surface of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

A. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due

process; or

B. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

C. that the imposition of the same discipline by this court would result in grave injustice; or

D. that the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

5. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this court.

6. This court may at any stage appoint the committee to prosecute the disciplinary proceeding.

7. An attorney, who is under suspension or disbarment by any jurisdiction, or who has resigned from the bar thereof, or who is under investigation by any other jurisdiction, may not be admitted to the Virgin Islands Bar until and unless he is certified to be a member in good standing of the bar of that jurisdiction. Moreover, no applicant who has been disciplined by another jurisdiction may be admitted to the V.I. Bar until and unless all obligations to that jurisdiction have been satisfied

and the jurisdiction certifies that he is eligible for reinstatement or readmission.

(d) Disbarment on consent or resignation in other courts.

1. Any attorney admitted to practice before this court who shall be disbarred on consent or resign from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this court and be stricken from the roll of attorneys admitted to practice before this court.

2. Any attorney admitted to practice before this court shall, upon being disbarred on consent or resigning from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the clerk of this court of such disbarment on consent or resignation.

(e) Standards for professional conduct.

1. For misconduct defined in these rules, and for good cause shown, and after notice and opportunity to be heard, any attorney

admitted to practice before this court may be disbarred, suspended from practice from this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

2. Acts of omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this court is the Rules of Professional Conduct adopted by the American Bar Association, as amended from time to time by that body, except as otherwise provided by specific rule of this court after consideration of comments by representatives of the Virgin Islands Bar Association.

(f) Disciplinary proceedings.

1. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this court shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the judge shall refer the matter to the committee for investigation and the prosecution of a formal disciplinary

proceeding or the formulation of such other recommendation as may be appropriate.

2. Should the committee conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which in the judgment of the committee should be awaited before further action by this court is considered or for any other valid reason, the committee shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.

3. To initiate formal disciplinary proceeding, the committee shall obtain an order of this court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

4. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation this court shall set the matter for prompt hearing before the chief judge of this court, provided however that if the disciplinary proceeding is predicated upon the complaint of the chief judge of this court the hearing shall be conducted before another judge of this court.

(g) Disbarment on consent while under disciplinary investigation or prosecution.

1. Any attorney admitted to practice before this court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

A. the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

B. the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney shall specifically set forth;

C. the attorney acknowledged that the material facts so alleged are true; and

D. the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself.

2. Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

3. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under

the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

(h) Reinstatement.

1. After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this court.

2. Time of Application Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

3. Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney shall be filed with the clerk of this court for referral to the presiding judge who shall thereafter assign the matter to a disinterested judge, attorney or committee for review. The judge, attorney or committee assigned to the matter shall review the petition and verify the allegations therein and may schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for reinstatement to

practice and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or to the public interest. In addition, the applicant may be required to satisfactorily retake all or part of the Virgin Islands Bar Examination.

4. Duty of the Committee. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by the committee.

5. Deposit for Costs of Proceeding. Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.

6. Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the judge before whom the matter is heard, upon the furnishing of proof of competency and

learning in the law, which may include certification by the Committee of Bar Examiners successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

7. Successive Petitions. No petition for reinstatement under this rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(i) Attorneys specially admitted. Whenever an attorney applies to be admitted or is admitted to this court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

(j) Service of papers and notices. Service of an order to show cause instituting a formal disciplinary proceeding inside the territory shall be made according to Fed. R. Civ. P. 4 and outside the territory according to 5 V.I.C. § 4911. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at his last known address, or to the respondent's counsel at the address indicated in the most recent pleading or other document filed in the course of any proceeding.

(k) Committee on professional responsibility and discipline.

1. Unless otherwise stated herein, all disciplinary proceedings against attorneys admitted to practice before this court shall be conducted by the committee. Should the committee conclude after investigation and review that the evidence does not warrant prosecuting a formal disciplinary proceeding against the respondent attorney, the committee shall dispose of the matter informally, whether by dismissal, reprimand, admonition, disqualification, restitution, or otherwise. Should the respondent attorney not be satisfied with said disposition he or she may demand (within 45 days) that a formal disciplinary proceeding be commenced and it shall commence forthwith.

2. The committee may make rules and regulations for its operation as it may deem necessary, and such rules and regulations shall be submitted for review with comments to the Board of Governors of the Bar Association and this court and approved by this court. The rules shall become effective upon approval by this court and publication to all members of the V.I. Bar Association by reproduction in the V.I. Bar Association Law Letter or by mail.

3. The facilities and employees of this court shall be available to the committee for such use and assistance as the members may require. The committee is authorized to obtain the services of medical and other experts and to cause subpoenas to be issued out of the office of the clerk of the territorial court

as necessary to compel attendance of witnesses.

4. The committee is authorized to retain the aid of other members of the bar to investigate alleged misconduct and report to the committee their findings and recommendations or to prosecute formal disciplinary proceedings on behalf of the committee.

5. All fees and expenses shall be paid from funds of the Virgin Islands Bar Association.

(1) Committee on Unauthorized Practice of Law. It shall be the duty of the Committee on Unauthorized Practice of Law of the Virgin Islands Bar Association to keep under continuing study the subject of unauthorized practice of law; to analyze and evaluate the measures that exist in the Virgin Islands to prevent unauthorized practice, comparing such measures to those employed in other territories and States; and to investigate unauthorized practice.

The Committee on Unauthorized Practice of Law shall have the power to investigate all charges of unauthorized practice that may be brought to its attention in writing, and to initiate such investigations upon its own motion. When sufficient funds are available for the purpose, the Board of Governors shall have authority to appropriate the funds necessary for such investigations.

The committee shall have the power to summon and examine

witnesses, to order the production of books, records and other documentary evidence, and to administer oaths. The committee is authorized to cause subpoenas to be issued out of the office of the Clerk of the Territorial Court as necessary to compel attendance of witnesses.

With the approval of the Board of Governors of the Virgin Islands Bar Association, the committee may take steps to prevent or stop the unauthorized practice of law, including the initiation of legal proceedings.

(m) Payment of fees and costs. At the conclusion of any disciplinary investigation or prosecution, if any, under these rules, the committee may make application to this court for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinary investigation or prosecution against the respondent-attorney.

(n) Duties of the clerk.

1. Upon being informed that an attorney admitted to practice before this court has been convicted of any crime, the clerk of this court shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this court. If a certificate has not been so forwarded, the clerk of this court shall promptly obtain a certificate and file it with this court.

2. Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, the clerk of this court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this court, and, if not, the clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this court.

3. Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk of this court shall, within ten days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified or exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

4. The clerk of this court shall, likewise, promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this court.

(o) Jurisdiction. Nothing contained in these rules shall be

construed to deny to this court such powers as are necessary for the court to maintain control over proceedings conducted before it.

(p) Attorneys who fail to accept indigent appointments.

Any attorney who refuses to accept an indigent appointment or is unavailable for two or more appointments in a calendar year shall be subject to the contempt powers of this court and such other disciplinary action for misconduct as might be recommended by the Virgin Islands Bar Association.

Appointment of attorneys to represent indigent defendants shall be made on the basis of the alphabetical rotation of their names, provided, however, that the presiding judge may provide for alternative methods of appointment based upon the seriousness of the offense, the expertise of the attorney, the length and complexity of the trial, and other appropriate factors. Temporary exemption from appointment may be granted to an attorney after representation in a complicated case.

Exemption may also be granted by order of the court under appropriate circumstances justifying compensatory relief from indigent appointments.

Rule 304. Regular Admission

(a) Compulsory Examination

An applicant for regular admission to the Virgin Islands Bar must comply with the requirements of this rule. No one may obtain regular admission to the Virgin Islands Bar unless and until the Virgin Islands Bar Examinations have been successfully undertaken as described in this rule.

(b) Committee of Bar Examiners

(1) Composition. The presiding judge shall appoint a special committee to be known as the Committee of Bar Examiners whose function shall be to assist the court in the administration of the Virgin Islands Bar Examination, which includes character investigations and other matters related to admission to the Virgin Islands Bar. The Bar Examinations shall be conducted semi-annually. The committee shall consist of not less than five (5) members of the Virgin Islands Bar in good standing whose appointments shall be for varied terms and who shall serve until their terms expire, until their successors are appointed, or until removed by the presiding judge for cause.

(2) Immunity from Suit. The duties of the Committee are inherently judicial functions which are being performed on behalf of the Court. The Court accordingly hereby adopts the American Bar Association's (ABA's) Model Immunity Rule entitled "'Civil Immunity of Board of Law Examiners, its members, employees and

agents, and entities providing information regarding an application to the board'', as adopted February 1998, and which provides as follows:

(a) [The Committee of Bar Examiners], and its members, employees, and agents are immune from all civil liability for conduct and communications occurring in the performance of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

(b) Records, statements of opinion and other information regarding an applicant for admission to the Bar communicated by an entity, including any person, firm or institution, without malice, to the [Committee of Bar Examiners], or its members, employees or agents are privileged, and civil suits predicated thereon may not be instituted.

(c) Application Procedure

(1) Application for regular admission to the Virgin Islands Bar shall be made in writing to the Territorial Court at least thirty (30) days prior to the date of the semi-annual Bar Examinations, and shall be accompanied by a fee of three hundred and fifty dollars (\$350.00), which shall not be refunded if the application is withdrawn, if the applicant loses or fails to submit the character questionnaire, or if the Bar Examination is not taken as scheduled, except for good cause shown.

(2) Fifty dollars (\$50.00) of said amount shall be

retained by the clerk as a filing fee and the balance of three hundred dollars (\$300.00) shall be administered by the Committee of Bar Examiners to defray the local costs of examinations, investigations and administration. Applicants shall submit two (2) checks or money orders - one for fifty dollars (\$50.00) payable to the clerk of the Territorial Court and the other for three hundred dollars (\$300.00) payable to the Committee of Bar Examiners.

(3) In addition to the aforesaid local fees, each applicant must defray the cost of each non-local examination and investigations, as follows:

Multi-State Bar Examination (MBE)	\$33.00
Multi-State Professional Responsibility Examination (MPRE)	\$35.00
National Conference of Bar Examiners Investigation (NCBE)	\$175.00
(Practicing Attorneys \$200.00)	

These fees may be paid by cashier's check, money order or certified check as indicated by each examining agency, and are subject to change.

(4) Persons seeking information concerning the Bar examination may, upon request, be furnished with a packet of relevant materials upon remittance of a fee of \$25.00 payable to the Committee of Bar Examiners.

(5) The clerk shall open a miscellaneous civil file for

each application, assign a case number, and refer the application to the Bar Admissions Coordinator of the Territorial Court who shall coordinate the processing of the application with the Committee of Bar Examiners.

(d) Criteria for Application

Each applicant for regular admission must allege and prove to the satisfaction of the committee that the applicant is:

1. At least twenty-one years of age;
2. A citizen of the United States or a resident non-United States citizen who is a legal immigrant, i.e., an immigrant who has lawfully been admitted for permanent residence in the United States;
3. A person of good moral character;
4. If previously admitted to the bar of any other jurisdiction, a current member in good standing of that jurisdiction; and
5. A graduate of an accredited law school approved by the American Bar Association.

(e) Composition of Examination

Each applicant is required to pass the following examinations:

- (1) Multi-State Bar Examination (MBE);
- (2) Local Law Essay Examination (Essay);
- (3) Multi-State Professional Responsibility Examination

(MPRE); and

(4) Character Examination and Personal Interview.

The MBE and Essay exams shall be held semi-annually in February and July on St. Thomas, Virgin Islands, and when warranted by the number of applicants, may be held simultaneously on St. Croix, Virgin Islands. The date of the MBE exam will coincide with the national date published by the National Conference of Bar Examiners, and the date of the Essay exam will be the day following the MBE exam. The MPRE exam shall be held on the dates established by the National Conference of Bar Examiners which are different from the MBE and Essay exam dates. The MPRE shall become effective in the Virgin Islands on and after November, 1994. The Committee shall also examine applicants as to their character and may conduct such character investigations and personal interviews as are required. In so doing, the applicants may be required to appear before it for questioning or furnish it with answers to such questions as are appropriate. The committee may employ the administrative staff necessary to satisfactorily perform its work, and coordinate the character examinations with the National Conference of Bar Examiners.

(f) Scoring of Examination

In order to pass the written bar examinations, each applicant must receive a minimum combined score of 70% or more on the MBE and Essay portions of the examination, and a minimum score of 75%

on the MPRE. For purposes of the MBE, a scaled score of 133 is equivalent to 70%. An applicant who has passed only one of the two portions of the exam, and whose combined score in the MBE and Essay does not amount to 70%, may take the exam for the failed portion. However, an applicant who passes one portion may retake that portion simultaneously with the retaking of the failed portion in order to obtain the benefits, if any, of combining the MBE and Essay scores. An applicant's scores cannot be combined unless both the MBE and the Essay portions are taken during the same scheduled examination period.

MBE and MPRE scores obtained in another United States jurisdiction may be accepted by the committee, provided that minimum passing score required by the Virgin Islands Bar has been achieved and certified in writing by the other jurisdiction, and provided further that the scores certified are no more than five years old.

(g) Bar Examination Review Procedure

Any applicant who fails the Essay portion of the Bar Examination will be permitted, on written request made to the committee within twenty (20) days after date of mailing or issuing results, to review the examination in accordance with the following procedure:

(1) The review will be made under the supervision of a committee member (to be assigned by the chairman of the Committee

of Bar Examiners) by appointment at a time mutually convenient to the applicant and such member.

(2) The applicant will be allowed to review the essay-type questions, his own answers to those questions, and the model answers prepared by the examiner. The applicant will not be permitted to see the answers of other applicants. The applicant's own answers will disclose his grade on each essay-type question.

(3) Since the regulations governing the MBE and MPRE Examinations require all questions and answers to be forwarded for grading to the Educational Testing Service immediately after the exams, no MBE or MPRE Examination questions or answers can be made available to the applicant. In lieu thereof, the applicant will be advised of his scores and other related information received by the Committee.

(4) Where the applicant sat for both the essay and the MBE sections, the applicant's average grade on the essay part of the examination and his score on the MBE part are combined into a single percentage score to determine his overall passing or failing grade, which will be disclosed to him.

(5) The applicant will be allowed adequate time to make such notes as he desires from the materials made available to him for review, but he will not be allowed to remove the questions, his own answers, or the model answers from the room or be given copies of them.

(6) The single member of the Committees of Bar Examiners

supervising the review will not discuss the examination with the applicant. If the applicant has any questions, comments or objections about the examination as a result of his review, he shall submit them in writing within (10) days after review to the committee chairman, who will refer them to the appropriate examiner(s) for action. In so doing, the applicant shall not reveal his identity or score but shall refer only to the applicant's exam number, the grades being challenged and the reason therefor. An applicant who identifies himself or his score or the number of points needed to pass shall be disqualified from further review by the examiner. After a challenge has been analyzed, the examiner shall thereafter advise the committee chairman whether upgrading is warranted and, if warranted, the upgraded score. The committee chairman shall thereafter notify the candidate of the results of the review.

(7) Simple rounding-off of scores is permitted, but no multiple rounding-off is allowed.

(h) Re-taking Bar Examination

(1) Any applicant who fails to pass the bar examination may be permitted by the committee to retake the examination but if the applicant fails the exam three times, he shall not be eligible to take any further examinations without leave of the presiding judge of the Territorial Court upon a showing that he has completed a current, accredited bar review course of at least

six (6) weeks' duration. The fee for retaking each portion of the bar examination shall be two hundred dollars (\$200.00), payable to the Committee of Bar Examiners.

(2) An applicant who is not admitted to practice within five (5) years after passing any or all parts of the bar examination shall be required to retake the entire examination and must re-apply for admission and for re-examination, including submitting an updated character report, and paying the appropriate fees. The result of any bar examination that is more than five (5) years old shall not be acceptable for current admission.

(i) Admission Procedure

When an applicant has satisfactorily passed the bar examination, and has met all other requirements of this rule, the Committee of Bar Examiners shall so certify to the Territorial Court by written motion for the applicant's admission. The motion shall be reviewed by the Territorial Court and if satisfactory, the applicant shall be admitted to the Virgin Islands Bar in open court upon taking the oath (or affirmation) required of applicants for admission to the Bar of the Supreme Court of the United States. The clerk of the court shall thereafter issue to the applicant a Certificate of Admission as a member of the Virgin Islands Bar and shall enter the applicant's name on the Roll of Attorneys, provided that no such attorney may commence

the practice of law unless and until all appropriate membership dues and licensing fees have been paid.

**Rule 305. Virgin Islands Bar Association: membership:
by-laws**

(a) The Virgin Islands Bar Association is created to assist the Court in regulating the practice of law in the territory. All attorneys admitted to practice law in the Territorial Court are required to be members of the Virgin Islands Bar Association so that no one may practice law in the Territorial Court of the Virgin Islands without being a member in good standing of the Virgin Islands Bar Association.

(b) No attorney may practice law in the Virgin Islands in any matter, including appearing for a party at depositions taken in the Virgin Islands in cases filed in the Virgin Islands or appearing before administrative agencies of the Virgin Islands who is not an active member of the Virgin Islands Bar pursuant to Rule 306.

(c) (1) The Virgin Islands Bar Association shall adopt by-laws which must be consistent with these rules, filed with the Court, and subject to the Court's approval. Upon review of the by-laws and prior to their approval, the Court may notify the Virgin Islands Bar Association of its objections and concerns regarding

certain provisions thereof. After corrections by the Bar Association and/or the Court, the by-laws may be approved if deemed appropriate by the Court, and when approved, shall be of full force and effect, rendering any By-laws adopted prior to this rule null and void.

(2) Where, in the opinion of the presiding judge of the Territorial Court, any standing or ad hoc committee of the Bar Association has become inactive and/or has failed to perform its duties, and where the interests of the Court, the Bar, and the public are not being served thereby, the presiding judge may appoint a special committee of attorneys in good standing to perform the duties of the standing or ad hoc committee until such time as the non-performing committee satisfies the Court by certification that it is ready, willing, and able to resume its duties. Prior to the appointment of a special committee the presiding judge shall consult with the president of the Bar and give the non-performing committee 30 days notice to fulfill its duties.

(3) The president of the Bar Association shall submit to the presiding judge a semi-annual report on the activities of all standing and ad hoc committees of the Bar.

(d) Upon petition filed in the Territorial Court by the treasurer of the Virgin Islands Bar Association, any member of the Bar, however classified, who is delinquent in the payment of

dues set forth in the bylaws may be suspended, after notice and hearing, from the practice of law by order of a judge of the Territorial Court. in filing the petition, the treasurer must attach an affidavit verifying that the member was in fact properly notified that the dues were payable, stating date and time of service, and that the member still failed to make payment. The petition may be dismissed upon proof of payment by the Bar member. A suspended member may be reinstated upon proof that the delinquent dues have been paid, together with court costs for filing and prosecuting the petition.

(e) Whenever the business of the Bar Association requires polling of the membership, active members of the Bar Association in good standing shall be permitted to vote regardless of where in the territory the polling is being tabulated. Toward this end, the Bar Association shall take appropriate measures to ensure the casting of ballots by all eligible members. Where mailing of ballots is required, the Bar Association shall provide adequate time for distribution and return before the tabulation deadline. The Bar shall provide for appropriate record keeping and storage of all polling information, ballots, results, etc.

(f) The Bylaws of the Virgin Islands Bar Association, and amendments thereto, as approved by the Court shall be published with these rules.

Rule 306. Membership Status

(a) Active Status. An active member of the Bar is an attorney who is admitted to practice in any of the three categories set forth in Rules 301, 302 and 304, who is in good standing, and who actually engages in the practice of law as authorized.

(b) Inactive Status.

(1) An inactive member of the Bar is an attorney who ceases to actively practice law in the Virgin Islands, provided, however, that no attorney shall be deemed to be an inactive member unless a petition for such status is filed with the Court setting forth the reasons therefor. Upon receipt of the petition, the Court, for good cause shown, may grant the petition. The pendency of disciplinary or other similar proceeding anywhere shall be a bar to the grant of inactive status. Prior to the grant of inactive status, all pending cases in which the member is attorney of record shall be disclosed to the Court and appropriate action taken to arrange for substitute counsel.

(2) An active member of the Bar who elects to become inactive shall file an application with the court requesting such status and setting forth the reasons therefor. Upon approval of the application, the Bar Association shall be notified and the member shall not engage in the practice of law in the territory except as provided herein. Any member who engages in the active practice of law in any form while on inactive status shall be

subject to the contempt powers of the court and such other disciplinary action for misconduct as might be recommended by the Virgin Islands Bar Association.

(3) Upon motion made to the Court by the secretary of the Virgin Islands Bar Association or by the court, sua sponte, an active member who ceases to actively practice law in the Virgin Islands without having requested inactive status, may be suspended from the practice of law. Such suspended member may not be reinstated to full active membership except upon proof that, within a reasonable time after his application for reinstatement, he intends to actively practice law in the Virgin Islands.

(4) An inactive member of the Virgin Islands Bar in good standing who is interested in litigation filed in the Territorial Court may, in the discretion of a judge of the Territorial Court and upon the payment of all appropriate dues and fees, be permitted to participate in the litigation as an active member of the Virgin Islands Bar.

(c) Voluntary Resignation or Withdrawal and Reinstatement.
Any member of the Bar may voluntarily resign therefrom, provided that:

(1) the resignation was not filed in lieu of disciplinary proceedings, suspension or disbarment;

(2) at least 60 days advance notice is given to his clients, to the bar, and to this court; and

(3) adequate arrangements are made to transfer pending cases to other counsel or to conclude all pending cases.

(d) A member who has voluntarily resigned or withdrawn from the Bar may petition the court at any time for reinstatement, provided that satisfactory proof by affidavit is submitted to the court certifying that since his resignation or withdrawal he was not subject to any disciplinary proceedings in any jurisdiction, and provided further that he is currently of good moral character, and that he has met all obligations to his former clients.