

RE: Application for Certification as a Foreign Legal Consultant (FLC)

NOTICE: Certification as a FLC does not authorize you to practice North Carolina law. North Carolina General Statute §84A-4 specifies the scope of practice of a certified FLC. This statute should be read carefully before filing an application for certification as a FLC. A person who is certified as a FLC is severely limited in the legal services that he or she can provide in North Carolina. For example, G.S. 84A-4(b)(7) provides that such a person shall not “render professional legal advice regarding [North Carolina] law, the laws of any other state, the laws of the District of Columbia, the laws of the United States or the laws of any foreign country other than the country in which the foreign legal consultant is admitted to practice as an attorney.”

APPLICATION PROCESS: Pursuant to the request of the North Carolina Supreme Court, which certifies foreign legal consultants, review of the character and fitness of FLC applicants is delegated to the North Carolina Board of Law Examiners (BOLE). **This means that no action will be taken on your FLC application until we receive a statement from the BOLE indicating that you satisfied its character and fitness review. Therefore, in addition to filing the attached FLC application with the North Carolina State Bar, you must file a bar application with the BOLE and pay the board’s application fee.** For additional information about this requirement, please contact Lee Vlahos, Executive Director of the Board of Law Examiners, at lvlahos@ncble.org or (919)-828-4886.

Completion of the State Bar FLC application and the BOLE application at the same time is recommended as many of the same documents will be required by both applications. For example, you may be required to provide duplicate originals of the same document to the BOLE and to the North Carolina State Bar. When you submit the BOLE application and fee, please include a cover letter advising the board that the bar application is for the purpose of making application for FLC certification.

If your FLC application is approved by the North Carolina Supreme Court, you will be required to purchase liability insurance. N.C. Gen. Stat. §84A-5(3), *Duties of a Foreign Legal Consultant*, states: “A foreign legal consultant shall:...Provide the Clerk of the North Carolina Supreme Court with evidence of professional liability insurance, in an amount as prescribed by the Supreme Court to assure the foreign legal consultant's proper professional conduct and responsibility.” The Chief Justice has prescribed the amount of coverage at \$500,000.

The FLC application process can be rather lengthy. It typically takes the BOLE several months to conduct a character and fitness investigation. Once the State Bar is notified of the outcome of the BOLE character and fitness review, your FLC application must be reviewed by the North Carolina State Bar Council (which meets quarterly). If the Council votes to approve the application, the Council’s recommendation is then sent to North Carolina Supreme Court for its review and final action.

If you have questions about the FLC process, please contact Tammy Jackson at tjackson@ncbar.gov.

IN THE SUPREME COURT OF NORTH CAROLINA

APPLICATION FOR CERTIFICATION
AS A
FOREIGN LEGAL CONSULTANT

Name: Mr. [] Mrs. [] Ms. [] _____

Date of Birth: _____ Place of Birth: _____

U. S. Social Security Number: _____

N.C. Driver's License Number: _____

1. Permanent Address (where mail will always reach you)

Telephone Number: _____ Fax Number: _____

E-Mail Address _____

2. Address of North Carolina Residence:

Telephone Number: _____ Fax Number: _____

E-Mail Address _____

3. Citizenship: Of what country are you a citizen? _____

4. Basis for Admission to the United States:

(A) Type Visa: _____

(B) Date of Issue: _____ Expiration Date: _____

(C) Place of Issue: _____

(D) Have you been issued a certificate of alien registration? _____ (Yes or No)

(E) Are you lawfully entitled to reside in and be employed in the U.S. pursuant to the U.S. immigration laws: _____ (Yes or No).

5. Admission to Practice Law in Foreign Jurisdiction:

(A) Name the jurisdiction in which you have been admitted to practice law and for which you are seeking certification as a Foreign Legal Consultant: _____

(B) Have you been in good standing in that jurisdiction at all times since your initial admission? _____ (Yes or No)

(C) Have you ever been charged with professional misconduct?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(D) Have you ever been disbarred, or had your license suspended?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(E) Are any charges of misconduct currently pending against you?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(F) Are you aware of any threatened charges of misconduct against you?
_____ (Yes or No)

If so, give details on a separate piece of paper.

6. Practice in Foreign Jurisdiction: Have you been actively and substantially engaged in the practice of law or a profession or occupation that requires admission to the practice of law, or the equivalent thereof, in the foreign country in which you are admitted for at least five of the seven years immediately preceding the date of this application?

_____ (Yes or No).

If "yes", provide the name and date of the license or equivalent admitting you to the practice of law: _____

7. Admission to U.S. Jurisdictions:

(A) Are you now or have you ever been admitted to practice law in another U.S. jurisdiction? _____ (Yes or No).

If so, state where and when _____

(B) Are you now or have you ever been certified as a Foreign Legal Consultant or in a similar capacity in another U.S. jurisdiction?
_____ (Yes or No).

If so, state where and when _____

IF THE ANSWER TO QUESTION 7(A) OR 7(B) IS YES, COMPLETE QUESTIONS 7(C) - 7(G).

(C) As to every U.S. jurisdiction to which you have been certified as a Foreign Legal Consultant or to which you have been admitted to the practice of law, have you been in good standing in at all times since your initial admission? _____ (Yes or No)

(D) Have you ever been charged with professional misconduct in any U.S. jurisdiction to which you have been certified as a Foreign Legal Consultant or to which you have been admitted to the practice of law?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(E) Have you ever been disbarred, or had your license or certification as a Foreign Legal Consultant suspended?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(F) Are any charges of misconduct currently pending against you in any U.S. jurisdiction in which you are admitted to the practice of law or in which you are certified as a Foreign Legal Consultant?
_____ (Yes or No)

If so, give details on a separate piece of paper.

(G) Are you aware of any threatened charges of misconduct against you in any U.S. jurisdiction in which you are admitted to the practice of law or in which you are certified as a Foreign Legal Consultant??
_____ (Yes or No)

If so, give details on a separate piece of paper.

8. Character Questions:

(A) Have you ever been arrested for and/or charged with a violation of the law in any country or U.S. jurisdiction? _____ (Yes or No).

If so, give details on a separate sheet of paper.

- (B) Have you ever been charged with fraud in any legal or administrative proceeding? _____ (Yes or No)

If so, give details on a separate sheet of paper.

- (C) Have you ever been a party to a civil law suit in which an adverse judgment was entered against you? _____ (Yes or No)

If so, give details on a separate sheet of paper.

- (D) Have you ever:

- (1) Sought or received treatment or counseling for any mental, emotional, or nervous condition or disorder? _____ (Yes or No)

If so, give details on a separate sheet of paper.

- (2) been voluntarily or involuntarily committed to a hospital, institution or facility as a result of any mental, emotional or nervous condition or disorder? _____ (Yes or No)

If so, give details on a separate sheet of paper.

9. Attachments: To be complete, the following material must be attached to this application and is hereby incorporated as a part of this sworn application. **IF ANY ATTACHMENT IS NOT IN ENGLISH, SUCH ATTACHMENT MUST BE ACCOMPANIED BY A DULY AUTHENTICATED ENGLISH TRANSLATION** by a licensed translator.

Please initial on each of lines below to indicate that the material is attached. Attach the documents in the order indicated on this list.

- (A) A certificate from the authority in such foreign country having final jurisdiction over professional discipline, certifying your admission to practice and the date thereof and your good standing as such attorney or counselor at law or the equivalent. Such certificate must also state whether any charge or complaint has ever been filed with the authority against you and if so, the substance of and adjudication or resolution of each such charge or complaint. The certificate must be signed by a responsible official or one of the members of the executive body of the authority and be imprinted with the official seal of the authority, if any; and

Initial

(B) A letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or intermediate appellate court of such foreign country, certifying your professional qualifications and a certificate from the clerk of this authority or the clerk of the highest law court or court of general original jurisdiction, attesting to the genuineness of your signature; and

Initial

(C) A letter of recommendation from at least two attorneys, or the equivalent thereof, admitted in and practicing law in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant and their appraisal of the applicant's moral character

Initial

(D) A copy of the law or rules of such foreign country which permits members of the North Carolina State Bar to establish offices for the giving of legal advice concerning North Carolina law to clients in such foreign country; and

Initial

(E) Duly authenticated documentation evidencing that you are lawfully entitled to reside and be employed in the U.S. pursuant to the immigration laws thereof:

Initial

(F) Two 2-inch by 3-inch photographs of the applicant, showing a front view of the applicant's head and shoulders.

Initial

(G) An application fee in the amount of \$200.00 paid in U.S. funds.

Initial

I hereby acknowledge that I have read Rules .0101 - .0113 concerning Foreign Legal Consultants in the Rules of the North Carolina State Bar and agreed abide by the rules and regulations applicable to Foreign Legal Consultants.

In making this application for certification as a Foreign Legal Consultant in North Carolina, I agree to provide any additional information which may be required regarding my past record. I understand that an investigation will be made by the North Carolina State Bar to determine my eligibility for certification and I hereby certify such investigation whether by the North Carolina State Bar, or the National Conference of Bar Examiners as its agent.

(Signature of Applicant)

STATE OF _____

COUNTRY OF _____

_____ (Applicant), being duly sworn, says
"I have read the foregoing questions and instructions, have answered all questions fully
and frankly, and affirm that all of the information provided herein is, of my own
knowledge, true and correct. I am aware that I have a duty to advise the North Carolina
State Bar of any circumstances occurring after the date of this application which would
affect my responses herein."

Subscribed and sworn to before me this the _____ day of _____
20_____.

Notary Public

My commission expires: _____
(Date)

NORTH CAROLINA SUPREME COURT
FOREIGN LEGAL CONSULTANT
AUTHORIZATION AND RELEASE

I, _____ born at _____
_____ (Town or City) _____ (Country),
on _____, U. S. Social Security Number _____
hereby apply for a character report and consent to have an investigation made as to my
moral character, professional reputation and fitness for practice as a Foreign Legal
Consultant and such information as may be received will be reported to the North Carolina
State Bar and to the North Carolina Supreme Court. I agree to give any further information
which may be required in reference to my past record and fitness to practice as a Foreign
Legal Consultant. I understand deliberations and records relating to my moral character
and fitness are confidential.

I also authorize and request every person, firm, company, corporation, governmental
agency, court, association or institution having control of any documents, medical records
and/or other records and other information pertaining to me, to furnish to the North Carolina
State Bar or any of its agents, representatives any such information, including documents,
medical records and/or other records, bar association files regarding charges or complaints
filed against me, formal or informal, pending or closed, or any other pertinent data and to
permit the North Carolina State Bar or any of its agents or representatives to inspect and
make copies of such documents, medical records and/or other records and other
information.

I hereby release, discharge and exonerate the North Carolina State Bar, its agents and
representatives and any persons furnishing information from any and all liability of every
nature and kind arising out of the furnishing or inspection of such documents, medical
records and/or other records and other information or the investigation made by the

North Carolina State Bar, its agents and representatives.

State of _____

County of _____

(Applicant Signature)

Subscribed and sworn to before me this _____ day of _____,
20____.

Notary Public

My commission expires: _____
(Date)

The North Carolina State Bar shall establish a list of arbitrators, consisting of attorneys or retired judges, who have been members of the North Carolina State Bar for at least ten years and who have indicated a willingness to serve. The parties shall, in their submission to arbitration agreement, elect to have one or three arbitrators. The administrator shall thereafter provide each party with the list of arbitrators.

History Note: Statutory Authority G.S. 84-23
Readopted Effective December 8, 1994

.0407 Selection of Arbitrators

If three arbitrators are to be selected, then

(a) each party to the dispute shall, within ten days after receipt of notice from the administrator, select one arbitrator on the approved list who shall be contacted by the administrator concerning his or her ability to serve and dates of availability. The two arbitrators so chosen shall execute an oath and appointment of arbitrator certificate provided by the administrator. Within fifteen days after certification, the two arbitrators shall choose a third from the administrator's approved list, who shall also execute an oath and appointment certificate. Failure of the two arbitrators to choose a third within the allotted time shall constitute a consent to have the third arbitrator chosen by the administrator;

(b) if the opposing parties cannot, because of the number of parties involved, settle upon two arbitrators who are to choose the third as set forth above, then the administrator shall notify the parties and appoint all three arbitrators from the approved list.

History Note: Statutory Authority G.S. 84-23
Readopted Effective December 8, 1994

.0408 Fees and Expenses

All expenses and the arbitrator fees shall be paid by the parties. Arbitrator compensation shall be at the same rate paid to retired judges who are assigned to temporary active service as provided in G.S. 7A-52 or any successor statutory provision. The administrator may require from each party an escrow deposit covering anticipated fees and expenses.

History Note: Statutory Authority G.S. 84-23
Readopted Effective December 8, 1994

.0409 Confidentiality

It is the policy of the North Carolina State Bar to protect the confidentiality of all arbitration proceedings. The parties, the arbitrators, and the North Carolina State Bar shall keep all proceedings confidential, except that any final award shall be enforceable under Chapter 1, Article 45A.

History Note: Statutory Authority G.S. 84-23
Readopted Effective December 8, 1994

.0410 Authority to Adopt Amendments and Regulations

The North Carolina State Bar may, from time to time, adopt and amend procedures and regulations consistent with these rules and amend or supplement these rules or otherwise regulate the arbitration procedure.

History Note: Statutory Authority G.S. 84-23
Adopted December 8, 1994

SUBCHAPTER F

Foreign Legal Consultants

Section .0100 Foreign Legal Consultants

.0101 Applications

All applications for certification as a foreign legal consultant must be made on forms supplied by the North Carolina State Bar and must be complete in every detail. Every supporting document required by the application form must be submitted with each application. The application form may be obtained by writing or by telephoning the Bar's offices.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0102 Application Form

(a) The application for certification as a foreign legal consultant form requires an applicant to supply full and complete information under oath relating to the applicant's background, including family history, past and current residences, education, military service, past and present employment, citizenship, credit status, involvement in disciplinary, civil, or criminal proceedings, substance abuse, mental treatment and bar admission and discipline history.

(b) Every applicant must submit as part of the application:

(1) a certificate from the authority that has final jurisdiction regarding matters of professional discipline in the foreign country or jurisdiction in which the applicant is admitted to practice law, or the equivalent thereof. This certificate must be signed by a responsible official or one of the members of the executive body of the authority, imprinted with the official seal of the authority, if any, and must certify:

(A) the authority's jurisdiction in such matters;

(B) the applicant's admission to practice law, or the equivalent thereof, in the foreign country, the date of admission and the applicant's standing as an attorney or the equivalent thereof, and

(C) whether any charge or complaint has ever been filed with the authority against the applicant and if so, the substance of and adjudication or resolution of each charge or complaint.

(2) a letter of recommendation from one of the members of the executive body of this authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, and a certificate from the clerk of this authority or the clerk of the highest law court or court of general original jurisdiction, attesting to the genuineness of the applicant's signature;

(3) a letter of recommendation from at least two attorneys, or the equivalent thereof, admitted in and practicing law in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant and their appraisal of the applicant's moral character;

(4) two sets of clear fingerprints;

(5) two executed informational Authorization and Release forms;

(6) a birth certificate;

(7) copies of all applications to take a bar examination or an attorney's examination or for admission to the practice of law that the applicant has filed in any state or territory of the U.S., the District of Columbia, or in any foreign country;

(8) certified copies of any legal proceedings in which the applicant has been a party;

(9) two recent 2-inch by 3-inch photographs of the applicant showing a front view of the applicant's head and shoulders; and

(10) any other relevant documents or information as may be required by the North Carolina State Bar.

(c) The application must be filed in duplicate. The duplicate may be a photocopy of the original.

(d) The application and all required attachments shall be in English or accompanied by duly authenticated English translations.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0103 Requirements for Applicants

As a prerequisite to being certified as a foreign legal consultant, an applicant shall:

(a) possess the qualifications of character and general fitness requisite for an attorney and counselor-at-law and be of good moral character and entitled to the high regard and confidence of the public and have satisfied the requirements of Section .0104 of this chapter at the time the certificate is issued;

(b) have been admitted to practice as an attorney, or the equivalent thereof, in a foreign country for at least five years as of the date of application for a certificate of registration;

(c) certify in writing that he or she intends to practice in the State as a foreign legal consultant and intends to maintain an office in the State for this practice;

(d) be at least 21 years of age;

(c) have been actively and substantially engaged in the practice of law or a profession or occupation that requires admission to the practice of law, or the equivalent thereof, in the foreign country in which the applicant holds a license for at least five of the seven years immediately preceding the date of application for a certificate of registration and is in good standing as an attorney, or the equivalent thereof, in that country;

(f) have filed an application as prescribed in Section .0102 above;

(g) be at all times in good professional standing and entitled to practice in every state or territory of the U.S. or in the District of Columbia, in which the applicant has been licensed to practice law, and in every foreign country in which the applicant is admitted to the practice of law or the equivalent thereof and is not under any pending charges of misconduct. The applicant may be inactive and in good standing in any foreign country or in any state or territory of the U.S. or in the District of Columbia; and

(h) satisfy the Bar that the foreign country in which the applicant is licensed will admit North Carolina attorneys to practice as foreign legal consultants or the equivalent thereof.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0104 Burden of Proving Moral Character and General Fitness

Every applicant shall have the burden of proving that the applicant possesses the qualifications of character and general fitness requisite for an attorney and counselor-at-law and is possessed of good moral character and is entitled to the high regard and confidence of the public.

History Note: Statutory Authority G.S. 84A 1 to 84A-8
Adopted March 7, 1996

.0105 Failure to Disclose

No one shall be issued a certificate of registration as a foreign legal consultant in this state:

(a) Who fails to disclose fully to the Bar, whether requested to do so or not, the facts relating to any disciplinary proceedings or charges as to the applicant's professional conduct, whether same have been terminated or not, in this or any other state, or any federal court or other jurisdiction or foreign country, or

(b) Who fails to disclose fully to the Bar, whether requested to do so or not, any and all facts relating to any civil or criminal proceedings, charges or investigations involving the applicant, whether the same have been terminated or not in this or any other state, or any federal court or other jurisdiction or foreign country.

History Note: Statutory Authority G.S. 84A 1 to 84A-8
Adopted March 7, 1996

.0106 Investigation by Counsel

The counsel will conduct any necessary investigation regarding the application and will advise the Membership & Fees Committee of the North Carolina State Bar of the findings of any such investigation.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0107 Recommendation of Membership & Fees Committee

(a) Upon receipt of all completed application forms, attachments, filing fees and information required by the Bar, and completion of the Bar's investigation, the Membership & Fees Committee shall make a written recommendation to the council respecting whether an applicant for certification as a foreign legal consultant has met the requirements of G.S. §84A-1 and these rules. Prior to making a written recommendation, the committee may request further information from the applicant or other sources and may require the applicant to appear before it upon reasonable notice. The committee's written recommendation shall include a statement of the reason(s) for the committee's decision.

(b) A copy of the committee's recommendation shall be served upon the applicant pursuant to Rule 4 of the N.C. Rules of Civil Procedure.

History Note: Statutory Authority G.S. 84A 1 to 84A-8
Adopted March 7, 1996

.0108 Appeal from Committee Decision

(a) The applicant will have 30 days from the date of service of the Committee's recommendation in which to serve a written request for a hearing

upon the secretary pursuant to Rule 4 of the N.C. Rules of Civil Procedure.

(b) If the applicant does not request a hearing in a timely fashion, the Membership & Fees Committee will forward its recommendation to the council. The council will consider the application and the recommendation of the Membership & Fees Committee and will make a final written recommendation to the N.C. Supreme Court, as set out in Section .0110(f) below.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0109 Hearing Procedure

(a) Notice, Time & Place of Hearing

(1) The chair of the Membership & Fees Committee shall fix the time and place of hearing within 30 days after the applicant's request for a hearing is served upon the secretary. The hearing shall be held as soon as practicable after the request is filed.

(2) The notice of the hearing shall include the date, time and place of the hearing and shall be served upon the applicant at least 10 days before the hearing date.

(b) Hearing Panel

(1) The chair of the Membership & Fees Committee shall appoint a hearing panel composed of three members of the committee to consider the application and make a written recommendation to the council.

(2) The chair shall appoint one of the three members of the panel to serve as the presiding member. The presiding member shall *rule* on any question of procedure which arises during the hearing; preside at the deliberations of the panel, sign the written determinations of the panel and report the panel's determination to the council.

(c) Proceedings Before the Hearing Panel

(1) A majority of the panel members is necessary to decide the application.

(2) Following the hearing on the contested application, the panel will make a written recommendation to the council on behalf of the Membership & Fees Committee regarding whether the application should be granted. The recommendation shall include appropriate findings of fact and conclusions of law.

(3) The applicant will have the burden of proving that he or she has met all the requirements of Sections .0102-.0104 above.

(4) At the hearing, the applicant and State Bar counsel will have the right

(A) to appear personally and be heard

(B) to call and examine witnesses

(C) to offer exhibits

(D) to cross-examine witnesses

(5) In addition, the applicant will have the right to be represented by counsel.

(6) The hearing will be conducted in accordance with the North Carolina Rules of Civil Procedure for nonjury trials insofar as practicable and by the Rules of Evidence applicable in superior court, unless otherwise provided by this subchapter or the parties agree otherwise.

(7) The hearing shall be reported by a certified court reporter. The applicant will pay the costs associated with obtaining the court reporter's services for the hearing. The applicant shall pay the costs of the transcript and shall arrange for the preparation of the transcript with the court reporter. The applicant may also be taxed with all other costs of the hearing, but the costs shall not include any compensation to the members of the hearing panel.

(8) The written recommendation of the hearing panel shall be served upon the applicant and the counsel within 14 days of the date of the hearing.

History Note: Statutory Authority G.S. 84A-1 to 84A-8
Adopted March 7, 1996

.0110 Review and Order of Council

(a) Review by Council

The applicant shall compile a record of the proceedings before the hearing panel, including a legible copy of the complete transcript, all exhibits introduced into evidence at the hearing, all pleadings and all motions and orders, unless the applicant and counsel agree in writing to shorten the record. Any

agreement regarding the record shall be included in the record transmitted to the council.

Adopted March 7, 1996

(b) Transmission of Record to Council

The applicant shall provide a copy of the record to the counsel not later than 90 days after the hearing unless an extension is granted by the president of the N.C. State Bar for good cause shown. The applicant shall transmit a copy of the record to each member of the council, at the applicant's expense, no later than 30 days before the council meeting at which the application is to be considered.

(c) Costs

The applicant shall bear all of the costs of transcribing, copying, and transmitting the record to the members of the council.

(d) Dismissal for Failure to Comply

If the applicant fails to comply fully with any provisions of this rule, the counsel may file a motion with the secretary to dismiss the application.

(e) Appearance before the Council

In his or her discretion, the president of the State Bar may permit the counsel for the State Bar and the applicant to present oral or written argument but the council will not consider additional evidence not in the record transmitted from the hearing panel absent a showing that the ends of justice so require or that undue hardship will result if the additional evidence is not presented.

(f) Order by Council

The council will review the recommendation of the hearing panel and the record and will determine whether the applicant has met all of the requirements of Sections .0102-.0104 above. The council will make a written recommendation to the N.C. Supreme Court regarding whether the application should be granted. The council's recommendation will contain a statement of the reasons for the recommendation and shall attach to it the application.

(g) Costs

The council may tax the costs attributable to the proceeding against the applicant.

History Note: Statutory Authority G.S. 84A-1 to 84A-8

Adopted March 7, 1996

.0111 Application Fees; Refunds; Returned Checks

(a) Every application and every reapplication for certification as a foreign legal consultant shall be accompanied by a fee of \$200 paid in U.S. currency.

(b) No part of the fee will be refunded.

(c) Failure to pay the application fees required by these rules shall cause the application to be deemed not filed. If the check payable for the application fee is not honored upon presentment for any reason other than error of the bank, the application will be deemed not filed. All checks presented to the Bar for any fees which are not honored upon presentment will be returned to the applicant, who shall pay the Bar in cash, cashier's check, certified check or money order any fees payable to the Bar, along with a \$20 additional fee for processing the dishonored check.

History Note: Statutory Authority G.S. 84A-1 to 84A-8

Adopted March 7, 1996

.0112 Permanent Record

All information furnished to the Bar by an applicant shall be deemed material, and all such information shall be and become a permanent record of the Bar. Records, papers and other documents containing information collected or compiled by the North Carolina State Bar and its members or employees as a result of any investigation, application, inquiry or interview conducted in connection with an application for certificate of registration are not public records within the meaning of Chapter 132 of the General Statutes.

History Note: Statutory Authority G.S. 84A-1 to 84A-8

Adopted March 7, 1996

.0113 Denial; Reapplication

No new application or petition for reconsideration of a previous application from an applicant who has been denied a certificate of registration as a foreign legal consultant shall be considered by the Bar within a period of three years (3) next after the date of such denial unless, for good cause shown, permission for reapplication or petition for a reconsideration is granted by the Bar.

History Note: Statutory Authority G.S. 84A-1 to 84A-8

Chapter 84A.

Foreign Legal Consultants.

§ 84A-1. License to practice as a foreign legal consultant.

(a) The North Carolina Supreme Court may issue a license to practice in the form of a certificate of registration as a foreign legal consultant to any applicant who satisfies all of the following requirements:

- (1) Has been admitted to practice as an attorney, or the equivalent thereof, in a foreign country for at least five years as of the date of application for a certificate of registration;
- (2) Possesses the character, ethical, and moral qualifications required of a member of the North Carolina State Bar;
- (3) Intends to practice in the State as a foreign legal consultant and intends to maintain an office in the State for this practice;
- (4) Is at least 21 years of age;
- (5) Has been actively and substantially engaged in the practice of law or a profession or occupation that requires admission to the practice of law, or the equivalent thereof, in the foreign country in which the applicant holds a license for at least five of the seven years immediately preceding the date of application for a certificate of registration and is in good standing as an attorney, or the equivalent thereof, in that country; and
- (6) Obtains a certificate of registration as a foreign legal consultant pursuant to G. S. 84A-3.

(b) An applicant is not required to take an examination to be licensed under this Chapter.

(c) As used in this section, "foreign country" means any country other than the United States of America. "Foreign country" includes Puerto Rico, Guam, the Virgin Islands, and the possessions of the United States. (1995, c. 427, s. 1.)

§ 84A-2. Application for a certificate of registration.

(a) Any person desiring to obtain a certificate of registration as a foreign legal consultant shall file an application, in duplicate, with the North Carolina State Bar on a form prescribed by the North Carolina State Bar. The application shall be made under oath, and shall contain information relating to the applicant's age, residence, address, citizenship, occupation, general education, legal education, moral character, and any other matters requested by the North Carolina State Bar.

(b) An applicant shall submit two 2-inch by 3-inch photographs of the applicant showing a front view of the applicant's head and shoulders.

(c) The applicant shall submit an application fee required by the North Carolina State Bar with the application. An application fee imposed under this subsection may not exceed two hundred dollars (\$200.00). Applications that are received without fees or applications that are not substantially complete shall be promptly returned to the applicant, with a notice stating the reasons for returning the application unprocessed and

stating any additional fees that the State Bar determines are required as a condition of reapplication.

(d) The application shall be accompanied by all of the following documents, and, if any documents are not in English, accompanied by duly authenticated English translations of:

- (1) A certificate from the authority that has final jurisdiction regarding matters of professional discipline in the foreign country or jurisdiction in which the applicant was admitted to practice law, or the equivalent thereof. This certificate must be signed by a responsible official or one of the members of the executive body of the authority, imprinted with the official seal of the authority, if any, and must certify:
 - a. The authority's jurisdiction in such matters;
 - b. The applicant's admission to practice law, or the equivalent thereof, in the foreign country, the date of admission, and the applicant's standing as an attorney or the equivalent thereof; and
 - c. Whether any charge or complaint ever has been filed with the authority against the applicant, and, if so, the substance of and adjudication or resolution of each charge or complaint.
- (2) A letter of recommendation from one of the members of the executive body of this authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, and a certificate from the clerk of this authority or the clerk of the highest law court or court of general original jurisdiction, attesting to the genuineness of the applicant's signature.
- (3) A letter of recommendation from at least two attorneys, or the equivalent thereof, admitted in and practicing law in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant and their appraisal of the applicant's moral character.
- (4) Any other relevant documents or information as may be required by the North Carolina State Bar.

(e) In addition to the documents set forth in subsection (d) of this section, the North Carolina State Bar may require other evidence as to the applicant's education, professional qualification, character, fitness, and moral qualification.

(f) Records, papers, and other documents containing information collected or compiled by the North Carolina State Bar or any of its members or employees as a result of any investigation, application, inquiry or interview conducted in connection with an application for a certificate of registration are not public records within the meaning of Chapter 132 of the General Statutes.

(g) Reciprocity between North Carolina and the foreign country in which the applicant is licensed is required for the applicant to be licensed as a foreign legal consultant under this Chapter. (1995, c. 427, s. 1.)

§ 84A-3. Issuance of a certificate of registration; waiver.

(a) The North Carolina State Bar shall review the statements and the supporting documents contained in an application submitted pursuant to G.S. 84A-2 and shall report the results of their review, with recommendations, to the North Carolina Supreme Court.

(b) The North Carolina Supreme Court may issue to an applicant a certificate of registration as a foreign legal consultant.

(c) The North Carolina Supreme Court shall not grant a certificate of registration as a foreign legal consultant unless it is satisfied that the applicant possesses good moral character.

(d) Upon a showing that strict compliance with all of the provisions of G.S. 84A-2 would cause the applicant unnecessary hardship or upon a showing of professional qualifications to practice as a foreign legal consultant satisfactory to the North Carolina Supreme Court, the North Carolina Supreme Court may issue a certificate of registration under this Chapter to an applicant who did not satisfy the provisions of G.S. 84A-2. (1995, c. 427, s. 1.)

§ 84A-4. Scope of practice.

(a) Subject to the limitations set forth in subsections (b) and (c) of this section, a person licensed as a foreign legal consultant under this Chapter, may provide legal services in the State and be compensated for those legal services.

(b) A person licensed as a foreign legal consultant shall not engage in any of the following:

- (1) Appear on behalf of another person or entity as the attorney for that person or entity in any legal proceeding or before any judicial officer or State or municipal agency or tribunal.
- (2) Sign or file in the capacity of an attorney any pleadings, motions, or other documents in any legal proceeding or before any judicial officer or State or municipal agencies, or tribunal.
- (3) Prepare any deed, deed of trust, mortgage, option, lease, assignment, agreement or contract of sale, or any other instrument that may affect title to real estate located in the United States.
- (4) Prepare any will or trust instrument affecting the disposition of any property located in the United States and owned by a resident of the United States.
- (5) Prepare any instrument relating to the administration of a decedent's estate in the United States.
- (6) Prepare any instrument affecting the marital relationship, rights, or duties of a resident of the United States or affecting the custody or care of the children of such a resident.
- (7) Render professional legal advice regarding State law, the laws of any other state, the laws of the District of Columbia, the laws of the United States or the laws of any foreign country other than the country in

which the foreign legal consultant is admitted to practice as an attorney or the equivalent thereof.

- (8) In any way represent that the foreign legal consultant is licensed as an attorney in the State or in any other jurisdiction unless he or she is licensed in that jurisdiction.
- (9) Use any title other than "foreign legal consultant"; provided, however, that the foreign legal consultant's authorized title and firm name in the foreign country in which he or she is admitted to practice as an attorney or the equivalent thereof, may be used, if the title, firm name, and the name of the foreign country are stated together with the title "foreign legal consultant". Nothing may be added to the title to create the impression that the foreign legal consultant holds a license to practice law in North Carolina.
- (10) Be hired by a firm as a partner, member, or in any capacity other than as a foreign legal consultant whose services shall be overseen by an attorney licensed to practice law in North Carolina.

(c) If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than the one in which the foreign legal consultant is admitted to practice law, or its equivalent thereof, then the foreign legal consultant shall consult an attorney, or the equivalent thereof, in that other jurisdiction, obtain written legal advice on the particular matter, and transmit the written legal advice to the client. (1995, c. 427, s. 1.)

§ 84A-5. Duties of a foreign legal consultant.

A foreign legal consultant shall:

- (1) Be subject to rules adopted by the North Carolina Supreme Court and the North Carolina State Bar and be subject to professional discipline in the same manner as is prescribed for disciplinary proceedings against attorneys;
- (2) Be subject to a proceeding brought by the North Carolina State Bar in superior court pursuant to G.S. 84-280) to protect the interests of clients of disabled, incapacitated, or deceased foreign legal consultants;
- (3) Provide the Clerk of the North Carolina Supreme Court with evidence of professional liability insurance, in an amount as prescribed by the Supreme Court to assure the foreign legal consultant's proper professional conduct and responsibility;
- (4) Subject his or her trust accounts to audit in the same manner as is prescribed for attorneys licensed to practice law in North Carolina;
- (5) Execute and file with the Clerk of the North Carolina Supreme Court, in a form and manner as prescribed by the Clerk:
 - a. An oath attesting that the foreign legal consultant will abide by the Rules of Professional Conduct of the North Carolina State

- Bar and those rules and directives of the North Carolina Supreme Court that are applicable to foreign legal consultants;
- b. A document setting forth the foreign legal consultant's address in the State and designating the Clerk of the North Carolina Supreme Court as agent upon whom process may be served, with the same effect as if served personally upon the foreign legal consultant in any judicial, quasi-judicial, or administrative proceeding brought against the foreign legal consultant arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within the State or to residents of the State; and
 - c. The foreign legal consultant's commitment to notify the Clerk of the North Carolina Supreme Court of any resignation or revocation of the foreign legal consultant's admission to practice law, or the equivalent thereof, in the foreign country in which he or she is admitted to practice as an attorney, or the equivalent thereof, and of any censure, suspension, reprimand, or expulsion with respect to that admission, or of any change of address within the State.
- (6) Pay an annual administration fee to the North Carolina State Bar equal in amount to the annual membership fee charged to active members of the North Carolina State Bar. Such fee shall be due on January 1 and delinquent on July 1 for each year or portion of a year in which the foreign legal consultant holds a certificate of registration. No portion of the annual administrative fee shall be waived or prorated. The State Bar's rules and regulations regarding enforcement and collection of annual membership fees shall apply to the enforcement of the obligation to pay the administrative fee. (1995, c. 427, s. 1.)

§ 84A-6. Service of process on foreign legal consultant.

Service of process on the Clerk of the North Carolina Supreme Court, pursuant to this Article, shall be made by personally delivering to and leaving with the Clerk duplicate copies of such process together with a fee of ten dollars (\$10.00). The Clerk shall promptly send one of such copies to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the address specified by the foreign legal consultant in his or her application under G.S. 84A-2, as updated pursuant to G.S. 84A-5(5). (1995, c. 427, s. 1.)

§ 84A-7. Delegation of duties.

The North Carolina State Bar may delegate any of its duties under this Chapter to the North Carolina Board of Law Examiners. (1995, c. 427, s. 1.)

§ 84A-8. Adoption of rules.

The North Carolina State Bar is authorized to adopt and amend such rules, subject to approval of the North Carolina Supreme Court, as are appropriate to accomplish the provisions of this Chapter. (1995, c. 427, s. 1.)