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To: Texas Court Reporters Association (TCRA) Members

From: Craig Enoch

Re: Proposed amendment to Rule 17 of the Code of Professional Conduct for Certified Shorthand Reporters and Court Reporting Firms

I write to respond to a letter distributed to TCRA members by the president of TCRA, Mary Oralia Berry. In the letter, Ms. Berry raised concerns about TexDRA's proposed amendment to Rule 17 of the Code of Professional Conduct for Certified Shorthand Reporters and Court Reporting Firms (the one-third rule). Ms. Berry raised three specific counterpoints.

First, Ms. Berry states that the proposed amendment would give the JBCC the power to set rates for originals, rush rates, daily copies, and court transcripts. This is simply inaccurate.

- The portion of Rule 17 that TexDRA requests for JBCC to amend solely applies to the *percentage* cap on *copies*, not originals, rush rates, daily copies, and court transcripts. The rates for originals, rush rates, daily copy rates, and court transcript rates would not be affected.
- The proposed amendment does not give pricing authority to the JBCC. Instead, it requires JBCC to gather data to utilize in a formula, to be approved by the Texas Supreme Court, for periodically determining the national average copy rate percentage.
- The proposed amendment is not an attempt to set price rates, but instead to raise the *percentage* rate limit from one-third to something more in line with national percentages (closer to 65 percent); i.e., the ratio of copy prices to original prices.

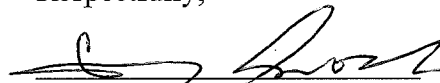
Second, Ms. Berry urges that if the one-third rule is "revoked," and the price of a copy is a higher page rate, attorneys might choose to not purchase copies at the higher rate, resulting in a loss of income for court reporters. But:

- TexDRA has not asked JBCC to eliminate the one-third rule, but instead to amend it. The only thing that will be eliminated is the restriction on freelance reporters' current ability to charge market rates for copies. The expansion of the rule will allow freelance reporters and firm owners the ability to compete with other firms and reporters in the national marketplace.

- The rule solely governs freelance reporters and firm owners. Official reporters are not governed by this rule. They are instead governed by a statute. *See* TEX. GOV'T CODE § 52.047.
- If a freelance reporter or firm prices copies beyond what the market will bear, he or she will lose copy sales. This creates an incentive for reporters to price copies cautiously.

Third, Ms. Berry argues that the JBCC has no authority to enforce the one-third rule other than for those cases that are filed in the Texas court system. Though true, it is unclear why this fact counsels against adoption of an amendment to the one-third rule for cases in Texas state courts.

Respectfully,



Craig T. Enoch