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For immediate release:

ABA Commission on Ethics 20/20 Will Not Propose Changes to ABA Policy Prohibiting Nonlawyer Ownership of Law Firms

At its meeting on April 12-13, 2012, the ABA Commission on Ethics 20/20 decided not to propose changes to ABA policy prohibiting nonlawyer ownership of law firms. Co-Chairs Jamie S. Gorelick and Michael Traynor said, "Since its creation in 2009, the Commission has undertaken a careful study of alternative law practice structures. Based on the Commission's extensive outreach, research, consultation, and the response of the profession, there does not appear to be a sufficient basis for recommending a change to ABA policy on nonlawyer ownership of law firms."

By June 2011, the Commission had publicly rejected certain forms of nonlawyer ownership that some other countries currently permit, including multidisciplinary practices, publicly traded law firms, and passive, outside nonlawyer investment or ownership in law firms.

After further consideration and study, on December 2, 2011, the Commission released for comment a Discussion Draft describing a limited form of court-regulated, nonlawyer ownership of law firms. It would have allowed nonlawyers, who were employed by a law firm and assisted the firm's lawyers in the provision of legal services, to have a minority financial interest in the firm and share in its profits. The Discussion Draft reflected an approach that was similar to but more restrictive than the structure permitted by the District of Columbia for more than twenty years.

"The Commission considered the pros and cons, including thoughtful comments that the changes recommended in the Discussion Draft were both too modest and too expansive, and concluded that the case had not been made for proceeding even with a form of nonlawyer ownership that is more limited than the D.C. model" said Gorelick and Traynor.

Although it will not propose any changes to ABA policy on nonlawyer ownership of law firms, the Commission will continue to consider how to provide practical guidance about choice of law problems that are arising because some jurisdictions, including the District of Columbia and a growing number of foreign jurisdictions, permit nonlawyer ownership of law firms. "These are current problems that need pragmatic attention," said Gorelick and Traynor. "The Commission previously released draft proposals on these issues, and will decide at its October 2012 meeting whether to submit formal proposals to the ABA House of Delegates for consideration in February 2013. Meanwhile, the Commission welcomes additional comments on the previously released drafts."

The Commission members include judges, law professors who specialize in legal ethics, practitioners (including former ABA, state bar, and local bar presidents), and liaison members from the ABA Board of Governors, Center for Professional Responsibility, Task Force on International Trade in Legal Services, Standing Committee on Ethics and Professional Responsibility, and Young Lawyers Division.