

MINUTES

COMMITTEE: Ethics Committee

DATE: March 2, 2000

7. CHAPTER 9, RULE 2: WHETHER IMPROPER FOR LAWYER TO PAY COMMERCIAL LAWYER REFERRAL SERVICE FOR LISTING

The Committee noted that the Unauthorized Practice Committee has concluded that commercial lawyer referral services that do not charge a fee to the client are not engaging in the unauthorized practice of law. This means that unless lawyers are prohibited from making use of commercial lawyer referral services by reason of Chapter 9, Rule 2 of the *Professional Conduct Handbook*, commercial lawyer referral services would be free to operate in British Columbia under some circumstances.

It was the Committee's view that provided the following criteria are met, a lawyer who uses the services of a commercial lawyer referral service does not violate Rule 2:

- (a) The service does not charge a fee to the client;
- (b) The fee the lawyer pays is not for the referral for a particular client, but is a fee for the lawyer's name to be placed or maintained on a roster of available lawyers;
- (c) The service maintains a roster of lawyers to whom clients are referred after the service determines the area of law in which the lawyer's services are required;
- (d) The fee charged to a lawyer is a flat fee and does not reflect the number of referrals made; and
- (e) When the client contacts the referral service, the service provides the client with information about several different lawyers who practice in a given area and leaves it up to the client to determine which lawyer, if any, to contact.

It was the Committee's view that before a lawyer would be permitted to use the services of a commercial lawyer referral service, it would also be necessary for the lawyer to be able to comply with the rule relating to preferred areas of practice in Chapter 14, Rule 16 of the *Professional Conduct Handbook*.

It was the Committee's view that there are no issues arising out of its conclusions on these questions that require consideration by the Benchers.