

COMMITTEE: Professional Standards

DATE: June 28, 1993

6. CHAPTER 11, RULE 14

The Committee received a request from a lawyer as to whether it is proper for a member to tape record a non-member in a situation where the member will subsequently be a witness against the non-member.

While Chapter 11, Ruling 14 prohibits lawyers recording statements of another lawyer without the consent of the other lawyer, and does not govern this situation, the CBA Code prohibits recording conversations with anyone without first informing the other person of the intention to do so.

The ABA Committee on Ethics and Responsibility opined in Formal Opinion 337 that conversations with any persons should only be recorded with the consent or prior knowledge of all parties to a conversation.

It was agreed that the lawyer should be advised that this conduct would be inappropriate.