

## MINUTES

**COMMITTEE:** Ethics Committee

**DATE:** April 12, 1995

**12. CONFIDENTIALITY OF INFORMATION RECEIVED FROM CORPORATE CLIENT ABOUT A SHAREHOLDER; CHAPTER 5, RULE 1**

The Committee considered a request from a lawyer raising the following questions:

- 1) Whether the lawyer is entitled to petition a former client into Bankruptcy where the client has been unable to pay the lawyer's account; and
- 2) Whether the lawyer is entitled to use for his personal benefit information he obtained about a client while acting for a company with whom the client was associated, as a Director or Shareholder.

The Committee was of the view that the lawyer was not prohibited from petitioning the client debtor into Bankruptcy provided he did not make use of any confidential information gained from his representation of the client beyond what is necessary to realize his claim against the client.

With respect to the question of whether the lawyer is permitted to use confidential information that came to him as a result of acting for companies with which the client was formerly associated, the Committee was of the view that the lawyer could not use this information unless:

- 1) He had the permission of the corporate clients to do this; and
- 2) He did not have any fiduciary obligation to the client debtor arising out of any association the debtor had with the lawyer's corporate clients, either as Director, Shareholder, or in any other capacity.

The Committee concluded that whether the lawyer has a fiduciary obligation to the client debtor on any particular set of facts is primarily a question of law and the Committee was not prepared to give an opinion on this issue in the absence of further information from the lawyer.