

MINUTES

COMMITTEE: Ethics Committee

DATE: December 2, 1999

7. CHAPTER 5: WHETHER LAWYER CAN DISCLOSE CONFIDENTIAL INFORMATION OF BANKRUPT CLIENT IN ORDER TO COLLECT FEE

A lawyer asked whether it is proper for him to disclose confidential client information to a the client's trustee in bankruptcy to enable the lawyer to collect his fee owed by the client. He asked the question in the following way:

I have a client who owes me a large sum of money. He has made an assignment in bankruptcy. He has filed a statement of affairs. He has not on the statement disclosed an asset of substantial value namely the right to sue a certain lawyer (a chose in action). I am of the opinion that he has such a right as I was intimately involved in the carnage that resulted from the negligence. Can I properly disclose this asset in communications with the trustee?

It was the Committee's view that the lawyer is entitled to disclose the client's confidential information to the trustee in bankruptcy if it is necessary to do that to collect his fee. Before disclosing the information he should, if possible, draw the client's attention to the alleged irregularity in the client's statement and ask that the client correct it. If the lawyer does disclose the information, he must disclose the minimum information necessary to collect the fee.

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