

MINUTES

COMMITTEE: Ethics Committee

DATE: December 11, 2003

5. CHAPTER 11, RULE 6: OBLIGATIONS OF NON-PRACTISING LAWYERS WHEN REPRESENTING CLIENTS

The Committee considered what obligations non-practising lawyers providing services to clients have to their clients, other lawyers and others and what disclosure obligations regarding their status non-practising lawyers have.

It was the Committee's view that non-practising lawyers who provide services to clients have the same obligations as practising lawyers in relation to the representation of clients and the carrying on of practice, generally. This includes the obligation in Chapter 11, Rule 6 to reply to any communication from another lawyer, the obligation to be reasonably accessible to clients, lawyers and others who contact the lawyer in connection with any representation and the obligation to provide competent services to clients.

With respect to their non-practising status it was the Committee's opinion, pursuant to Chapter 14, Rule 10 of the *Professional Conduct Handbook*, that non-practising lawyers have an obligation to disclose their status on any letterhead or other marketing activity. In addition, non-practising lawyers must disclose their status and its implications in other circumstances when they are representing a client where failure to do so would mislead someone in some way. This includes an obligation to advise prospective clients if the lawyer is not covered by professional liability insurance for a matter where the lawyer proposes to act.

The Committee noted that lawyers providing pro bono services under a program formally recognized by the Law Society are insured by the Lawyers Insurance Fund policy.

[See Law Society Rule 2-3(1) for a description of non-practising membership]