

MINUTES

COMMITTEE: Professional Standards Committee

DATE: January 17, 1994

7. Professional Conduct HANDBOOK, CHAPTER 2  
(Integrity), RULE 2 (DUTY TO MEET FINANCIAL  
OBLIGATIONS)

The Committee considered the member's request for an opinion on the following two questions:

1. If his law firm's management company enters into a new office lease, will the firm's partners have an ethical obligation to ensure that the rent is paid, notwithstanding the absence of any legal obligation to do so?

2. Does the Committee have the authority to give advance rulings binding on a disciplinary hearing panel, so that a member who is cited may rely on the ruling as a complete defence to the citation?

The Committee noted that its decisions are opinions and not rulings. In light of the definition of "conduct unbecoming" in the Legal Profession Act, section 1, a hearing panel is not entitled to substitute the decision of the Committee for the exercise of its own judgment, in determining the existence and ambit of ethical standards. The Committee's opinion on a particular matter is cogent evidence as to the existence and scope of ethical standards, although a hearing panel retains the right to find that a different standard applies in the circumstances before it. A member's conduct in seeking the opinion of this Committee, and then acting in reliance on that opinion, is evidence of good faith. Such evidence of good faith is relevant at all stages of the complaints and discipline process.

It was agreed that both questions should be answered in the negative.