

MINUTES

COMMITTEE: Ethics Committee

DATE: November 6, 1997

4. Chapter 11, rule 10: whether improper for a lawyer to seek an undertaking from another lawyer where the undertaking is not solely within the other lawyer's control

The Discipline Committee made a request that the Ethics Committee consider whether it is improper for a lawyer to seek from another lawyer an undertaking that requires the other lawyer to discharge a financial encumbrance from title to real property under circumstances where the discharge does not lie solely within that lawyer's control.

The Committee noted that Chapter 11, Rule 10 states that a lawyer must not impose on other lawyer's impossible, impractical or manifestly unfair conditions of trust. While the Committee agreed that it is improper to seek to impose an undertaking on another lawyer that that lawyer is incapable of honoring, it is difficult for lawyers to know all the circumstances of another lawyer's situation. Because the propriety of seeking an undertaking from a lawyer in any situation will depend on the specific facts of that situation, the Committee was of the view that it is unwise to attempt to expand the reach of Rule 10 beyond those situations currently covered by that Rule.

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