

MINUTES

COMMITTEE: Ethics Committee

DATE: September 5, 1996

6. CHAPTER 13, RULE 1: OBLIGATION TO REPORT BREACH OF TRUST TO LAW SOCIETY

A lawyer sent a cheque to another lawyer with a letter that stated, in part: "These funds are delivered to you upon the trust condition that you provide us with a registrable discharge of mortgage within a reasonable period of time."

The other lawyer did not provide the discharge of mortgage or return the funds, but, instead, took the position on behalf of his client that further funds were owed and the discharge of mortgage would not be provided until the additional funds were received. The lawyer asked the Committee whether he is obliged to report the other lawyer to the Law Society under these circumstances.

The Committee noted that Chapter 13, Rule 1 of the *Professional Conduct Handbook* requires a lawyer to report another lawyer's breach of undertaking which has not been consented to or waived by the recipient of the undertaking to the Law Society. In these circumstances, although the undertaking was expressed as a "trust condition," the Committee was of the view that the lawyer was obliged to report it to the Society.