

MINUTES

COMMITTEE: Ethics Committee

DATE: June 12, 1997

6. CHAPTER 6, RULES 4, 5 AND 6: ACTING FOR TWO OR MORE CLIENTS

A lawyer was retained to represent two clients in immigration proceedings. The two clients held themselves out as brother ("the male client") and sister ("the female client"). The female client claimed to be 19 years of age; the male client three years younger. Because the male client was a minor accompanying his sister to Canada, he would not have to file a separate refugee claim, but could be attached to his sister's claim.

The lawyer made a request under the *Privacy Act* to obtain information regarding his clients. He was sent one package of information regarding both clients. Ultimately, at an interview conducted by Immigration officials, the female client admitted that she was using a false name and that she and the male client were not brother and sister. Following that interview, the lawyer advised both clients that he could no longer represent them because of a conflict.

The male client has now retained new counsel who wishes to have access to all of the lawyer's file materials with respect to the matter, including materials that may refer to the female client as well. The lawyer did not have an agreement with the two clients to represent them jointly pursuant to Chapter 6 of the *Professional Conduct Handbook*.

The Committee was of the view that the lawyer ought to have had an agreement pursuant to Chapter 6 of the *Professional Conduct Handbook* to represent the clients jointly. In the absence of such an agreement, however, it was the Committee's view that it would be improper for the lawyer to disclose to the male client's new counsel any confidential information that he is holding on behalf of the female client.