

Digest of Ethics Advisory Panel
Opinion 91-65, Request #132
Issued September 19, 1991

An attorney seeks Panel advice to determine if it is proper to file a petition for instructions with the court in connection with a guardian's questionable withdrawal of funds.

The Panel is of the opinion that the attorney should first seek an explanation of the withdrawals from the guardian. If this proves to be non-responsive, unsatisfactory, or seems to indicate a misappropriation of funds, then the attorney should withdraw or move to withdraw under Rule 1.16 of the Rules of Professional Conduct, which states in part that . . ." (a) a lawyer shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law and (b) a lawyer may withdraw from representing a client if the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent."

In all events, Rule 1.6 and the responsibility to preserve the privileged communications of the client must also be kept in mind.