

ETHICS ADVISORY PANEL
OPINION #94-15 REQUEST #468
Issued March 23, 1994

The inquiring attorney represented a lending institution and a purchaser in a real estate closing. The attorney performed the title work in this matter. As in most real estate closings, funds were disbursed to the seller, the lender, the attorneys and real estate agents. The attorney's file regarding this matter is being subpoenaed by an attorney who is tracing funds paid to the seller. The inquiring attorney asks: (1) whether there are any confidentiality/representation issues owed to the seller; (2) whether he/she may turn over to the requesting attorney copies of cancelled checks drawn to the seller, lender and purchaser; and (3) whether he/she may supply other information regarding the loan, such as copies of signed documents by the purchaser.

With respect to the inquiring attorney's first inquiry, the Panel opines that the inquiring attorney does not have a confidential relationship with the seller. It appears from the facts supplied by the attorney, that his/her clients appeared to be the lending institution and/or the purchasers.

With respect to the second and third inquiry the Panel believes that Rule 1.6 "Confidentiality of Information" applies in this situation. This Rule states that (a) "A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation . . ." The Panel believes that as long as the clients, which appears to be the lending institution and purchaser, consents after consultation the attorney can supply the requested information.

This opinion addresses the Rules of Professional Responsibility only and does not address the question of privilege under the Rules of Evidence.