

Ethics Opinion No. 86-3

Referral of Client Identity to Credit Bureau.

A lawyer has proposed that when a client owes a delinquent fee of under \$1,500, rather than refer the account to a collection agency, the lawyer intends to report the client to a credit bureau. The credit bureau would disseminate that information whenever it received an authorized request about the client's credit status. By impairing the client's ability to obtain credit, it is hoped that the client will pay the account.

The Committee's foremost concern is that referral of the client's delinquent status to a credit bureau is at best an indirect method of collecting the unpaid fee. The only direct effect is to sully the client's credit rating. The Committee concludes that the probability of collection by such indirect methods as referral to a credit bureau is too small to justify its use. Referral to the credit bureau may intimidate and embarrass a client without ever resulting in payment of the fee or even direct efforts to collect the fee. This kind of activity is not befitting of the legal profession. It is directly contrary to EC 2-23, which requires attorneys to avoid public conflict over fees whenever possible. It may lead to the infliction of needless harm. EC 7-9, EC 7-10.

The disclosure of a client's name and delinquent fee amount with the intention that this information be used freely by third parties may constitute an unauthorized disclosure of a client "secret." DR 4-101(A), (B). Since the credit bureau will not be collecting the fee for the attorney, the exception allowing disclosure contained in DR 4-101(C)(4) is unavailable.

The Committee believes the referral of any client information to a credit bureau should not be permitted in Alaska, except with the knowing consent of the client. DR 4-101 (C)(1).

Adopted by the Alaska Bar Association Ethics Committee on August 26, 1986.

Approved by the Board of Governors on September 5, 1986