

**Resolution 9
In Support of Amendments to Rules 1.6(b)(2), 1.6(b)(3) and 1.13 of the Model
Rules of Professional Conduct Proposed by the ABA Task Force on Corporate
Responsibility**

WHEREAS, in Resolution 35, unanimously adopted by the Conference of Chief Justices on August 1, 2002, the Conference supported proposed Rules 1.6(b)(2) and (b)(3) of the Model Rules of Professional Conduct as recommended by the Ethics 2000 Commission of the American Bar Association (ABA); and

WHEREAS, these Ethics 2000 proposals are consistent with the existing ethics rules of 42 states and with the other limited exceptions already existing in Rule 1.6(b); and

WHEREAS, the ABA Task Force on Corporate Responsibility (the Task Force) in its final report dated March 31, 2003, has recommended approval of the Ethics 2000 proposed Model Rules 1.6(b)(2) and (b)(3) as well as a new Model Rule 1.13; and

WHEREAS, new Model Rule 1.13, as proposed by the Task Force, is designed to clarify a lawyer's obligation to a corporate client to report up the ladder of authority within the corporation a violation of law that is likely to result in substantial injury to the client and to take other steps reasonably believed to be necessary to prevent substantial injury to the corporate client; and

WHEREAS, the Task Force proposals, including the amendments to Model Rules 1.6 and 1.13, will be presented in Reports and Recommendations 119A and 119B to the ABA House of Delegates for their consideration at the ABA Annual Meeting on August 11-12, 2003; and

WHEREAS, the members of the Conference, consisting of the highest judicial officers in each American jurisdiction, have many years of experience and perspective in developing, implementing and enforcing the rules for lawyers practicing in their respective jurisdictions; and

WHEREAS, the Conference, as an organization, is committed to establishing and maintaining principles of ethics that represent the policy choices that are in the best interest of members of the profession and their clients; and

WHEREAS, the Conference has carefully reviewed and supports the proposals of the Task Force set forth in Recommendations 119A and 119B as being in the public interest and in furtherance of the policies set forth above and in Resolution 35 of the Conference adopted on August 1, 2002; and

WHEREAS, these policies and the proposals in Recommendations 119A and 119B are designed to address the national concern for the need to incorporate integrity, trust and responsibility in the conduct of lawyers for corporations and other organizations in light of the recent traumatic failures of several large American corporations; and

WHEREAS, Recommendation 119A to amend Rule 1.6(b) is a very limited exception to the lawyer's duty of confidentiality and is necessary and appropriate to prevent a client from using a lawyer's services to commit a crime or fraud that results in substantial financial injury to innocent third parties; and

WHEREAS, Recommendation 119B to amend Rule 1.13 is an appropriate clarification of a lawyer's obligation to the corporate client and would assist the lawyer in protecting the corporate client and its shareholders against illegal conduct that would substantially injure it;

NOW, THEREFORE, BE IT RESOLVED that the Conference supports the recommendations of the ABA Task Force on Corporate Responsibility contained in its Report dated March 31, 2003, to amend Rule 1.6(b) and Rule 1.13 of the Model Rules of Professional Conduct as set forth in its Reports and Recommendations 119A and 119B to the House of Delegates of the ABA; and

BE IT FURTHER RESOLVED that the Conference urges that the House of Delegates of the ABA approve at its August 2003 Annual Meeting the Recommendations of the Task Force to amend Model Rule 1.6(b) and to amend Model Rule 1.13.

Adopted as proposed by the Professionalism and Competence of the Bar Committee of the Conference of Chief Justices at the 55th Annual Meeting on July 31, 2003.