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Dear Sirs

LAWYERS REQUIRED TO OBSERVE RULE AGAINST CONFLICT OF INTEREST

The Law Society refers to the letter "Where's the Heart?" (18 November 2009).

The Law Society would like to clarify that the writer's complaint on the lawyer's professional conduct was reviewed by a Review Committee, which is an independent panel of persons appointed under the Legal Profession Act. After considering the grounds of the writer's complaint, the Review Committee unanimously dismissed the complaint as it found that there was nothing to suggest that the lawyer was under any obligation to provide any explanation to the writer's mother, who was not the lawyer's client.

After the Review Committee has dismissed a complaint, the Council of the Law Society must, under the Legal Profession Act, accept the Review Committee's direction to dismiss the complaint and notify the complainant in writing of the dismissal together with the reasons of the Review Committee. In this case, the Council did act accordingly.

The Review Committee's dismissal of the writer's complaint accords with the ethical rule that a lawyer must not be in a position of conflict of interest between his client and a third party. Explaining the contents of a letter to a third party can easily be misunderstood or misinterpreted by the third party that the lawyer is advising him, which could give rise to an implied retainer between the lawyer and the third party. Where an implied retainer arises, this would put the lawyer in a position of conflict of interest and result in a breach of the lawyer's duties to his client.

Yours faithfully



Michael Hwang, SC
President



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