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SERKLAND, LUNDBERG, ERICKSON, MARCIL & MCLEAN, LTD.

ATTORNEYS AND COUNSELORS AT LAW

10 ROBERTS STREET

P.O. BOX 6017

FARGO, NORTH DAKOTA 58108-6017

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TELEFAX
701/237-4049

DOUGLAS E. CHRISTENSEN
OFFICE MANAGER

SEP 25 1990
RECEIVED

September 25, 1990

[REDACTED]

Dear [REDACTED]

RE: Request for Opinion

The Ethics Committee of the State Bar Association of North Dakota has addressed and discussed the question raised in your letter of September 17, 1990.

It is the opinion of the Committee that you may not release the information contained in the client file referenced in your letter without the consent of the personal representative of the client's Estate. If you will review Rule 502(c), North Dakota Rules of Evidence, it is clear that in the case where the client is deceased, the privilege may be claimed by the personal representative of the deceased client. Consequently, based upon the information you disclosed in your letter of September 17, 1990, it is the Committee's opinion that you may not disclose information from the client file, which constitutes privileged information, unless you have the consent of the personal representative or an order of the court allowing you to release the information. In the absence of either the consent of the personal representative or a court order, the Committee is of the view that you could not release the information.

This letter opinion is issued to you for advisory purposes only and is not binding on you, the Court's of North Dakota, the


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Disciplinary Board, Grievance Committees, or any other member of
the Bar of the State of North Dakota.

Sincerely,

Paul F. Richard
Chairman-Ethics Committee
State Bar Association of North Dakota
cc: Sherry King

90-08

[REDACTED]

September 17, 1990

Mr. Paul F. Richard
Attorney at Law
P.O. Box 6017
Fargo, ND 58108-6017

RE: Ethics question

Dear Mr. Richard:

As discussed by telephone on September 17th, a situation has developed where I need an Ethics Committee opinion. The facts are as follows:

1. In 1979 I took over another attorney's law practice. Included with the transfer were many old files.
2. The previous attorney represented an individual in a divorce action in 1977. That case was included in the files.
3. The client in the 1977 divorce action died in 1990, and a claim against the estate has been filed by the ex-spouse from the 1977 divorce action.
4. I have received a subpoena duces tecum to testify at a deposition and bring the file for the 1977 divorce.

The deposition is scheduled for the afternoon of September 27, 1990. It would be greatly appreciated if the committee could advise me as to my obligations concerning confidentiality of the 1977 file. Your assistance is greatly appreciated.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

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Serkland, Lundberg, Erickson
- March & McClen, Ltd.