

Resolution 35
In Support of Rule 1.6(b)(2) and 1.6(b)(3) of Ethics 2000

WHEREAS, there is national concern for the need to incorporate integrity, public trust and responsibility in the conduct of agents and advisors of corporations and other organizations in the light of the unexpected and traumatic failures in recent months of several large American corporations; and

WHEREAS, the adoption by state courts and by the American Bar Association (ABA) of clear and firm ethical principles and Model Rules of Professional Conduct governing the role of lawyers as advisors to corporations will strengthen the public's confidence in corporate integrity;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices expresses its support of the recommendation of the ABA Commission on Evaluation of the Model Rules of Professional Conduct (Ethics 2000) in its Report 401 submitted to the ABA House of Delegates with respect to Rule 1.6(b)(2) rejected by the ABA House in August 2001, that would permit the lawyer to reveal "information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyers services;" and

BE IT FURTHER RESOLVED that the Conference likewise supports the recommendation of Ethics 2000 in its proposed Rule 1.6(b)(3) that would similarly permit the lawyer to "reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary . . . to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services."

Adopted as proposed by the Professionalism and Competence of the Bar Committee of the Conference of Chief Justices in Rockport, Maine at its 54th Annual Meeting on August 1, 2002.