September 22, 1988

Re: Professional Guidance Committee
Inquiry No. 88-20

Dear:

At your request the Committee re-evaluated its formal opinion regarding your inquiry of May 9, 1988. You have expressed your disagreement with the Committee's conclusion that correspondence which threatened criminal prosecution is not permitted under the Rules of Professional Conduct.

The Committee feels that its opinion as written should stand with respect to any specific threat of criminal sanctions directed to third persons. As we stated in that opinion there is no prohibition to sending letters intending to convey the legal risk involved in failure to make prompt payment of financial obligations. Similarly, the Committee feels that correspondence specifically directing debtors to the intent to seek legal redress or initiate legal proceedings is not inappropriate. However, any communication which directly or indirectly communicates an opinion with respect to what prosecuting authorities might do in a given situation exceeds the bounds of propriety and, in our view is ethically prohibited.