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WILLIAMS URGES BAR ASSOCIATION TO ENDORSE BROADER ROLE FOR CORPORATE LAWYERS

HONOLULU -- Lawyers, supported by their professional associations, must play a broader role in promoting the kind of corporate behavior which will blunt future demands for greater government regulation of the private sector, Chairman Harold M. Williams said today.

In remarks prepared for delivery to the annual meeting of the American Bar Association's Section of Corporation, Banking and Business Law, Mr. Williams urged lawyers to serve as "counselors" to their corporate clients, and not merely as "technicians."

"In my view," he said, "corporate lawyers must adjust their concept of their professional obligations to match society's evolving conception of the responsibilities of the institutions which the corporate bar serves, the rights of those impacted by such institutions, and the needs of the larger society."

Noting what he sees as "a disturbing trend among some corporate lawyers" to view themselves as "value-neutral technicians," Chairman Williams said that such a position would not, in fact, serve an attorney's client well.

"A counsel," he said, "does a disservice when, in effect, he limits his advice to whether the law forbids particular acts, or his assessment of the legal exposure, and does not share with the client his view of the possible ramifications of the various alternatives to the short and long-term interests of the corporation

and the private enterprise system. He preempts the opportunity for his client to make the fullest possible judgment by not providing the full range of information and advice of which he is capable and on which the client can make the most informed choice. To correct this tendency, the bar must place greater emphasis on the lawyer's role as an independent professional -- particularly on his responsibility to uphold the integrity of his profession."

A corporate attorney, Mr. Williams said, should feel an obligation to tell corporate management or, "if necessary," the board of directors, "if he or she is aware that the corporation is embarked on a course of conduct which, while arguably lawful, may be questionable and is of such significance that the corporation's interests -- not limited to legal liability -- may be materially affected."

Chairman Williams praised the efforts of the ABA's Commission on Evaluation of Professional Standards to draft a revised model code of behavior for attorneys, but expressed disappointment with proposals relating to the responsibilities of corporate lawyers.

"I do not take comfort from the fact," he said "that the proposed Model Code would permit the attorney to refer particular matters to higher client authority, including, if necessary, the board of directors or a similar governing body. That Code provision, taken together with the related commentary, erects a number of additional hurdles which frustrate, rather than facilitate, the attorney's communication with the client. Worse still, these hurdles may be used by timorous corporate lawyers to justify standing mute."

He said the ABA, as the professional association of attorneys, should go further in affirming a broad counselling role for corporate lawyers.

"The lawyer acting to protect the institutional integrity of a corporate client must face possible threats to career, personal relationships, and other interests without any ... justification or support from the bar -- which merely says, in essence, that he or she 'may' or 'may not' take such actions. Given human nature, such a permissive standard, in most cases, likely would mean no standard at all. In fact, it may be worse than no standard at all -- for it can legitimize what ought to be unacceptable professional conduct."

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