

DIGEST OF ETHICS ADVISORY PANEL  
OPINION 90-12, REQUEST #78  
Issued February 27, 1990

An attorney seeks Panel advice as to whether he may properly hire a certain individual to work as a paralegal in his law offices.

The inquiring attorney advises the Panel that an attorney, (Mr. X) was convicted of violating a federal statute. The inquiring attorney states that according to the federal court justice's decision the conviction had nothing to do with the practice of law and was not client related. Mr. X was suspended from the practice of law in 1987 as a result of the felony conviction. Mr. X is now eligible for work release. The inquiring attorney asks if he may hire Mr. X for paralegal duties which do not include contact with clients or the courts.

Provisional Order 18, titled "Use of Legal Assistance" became effective February 1, 1983. In addition to listing functions which a legal assistant may properly perform the order lists the obligations of the employing attorney. The final obligation listed, item 10, provides:

A lawyer shall not use or employ as a legal assistant any attorney who has been suspended or disbarred pursuant to an order of this court, or an attorney who has resigned in this or any other jurisdiction for reasons related to a breach of ethical conduct.

Provisional Order 18 is promulgated pursuant to G.L. 1956 (1985 Reenactment) § 8-6-2. Section 8-6-2 provides, in pertinent part that

The Supreme Court shall have the power to make rules for regulating practice, procedure and business therein.

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The rules presently in effect in the courts of the judicial system shall remain and continue in force and effect until revised amended, repealed or superseded by rules.

Provisional Order 18 has not been revised, amended or repealed. The Rules of Professional Conduct, adopted by Supreme Court order dated November 15, 1988 include Rule 5.3, titled "Responsibilities regarding Nonlawyer Assistants." Rule 5.3 does not, however, supersede the specific ban set forth in Provisional Order 18, item 10, either explicitly or implicitly. The Panel therefore concludes that Provisional Order 18 is presently valid and has full force and effect.

Rule 8.4, titled "Misconduct," provides, in pertinent part:

It is professional misconduct for a lawyer to

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(d) engage in conduct that is prejudicial to the administration of justice . . .

The Panel takes the position that for the inquiring attorney's firm to hire Mr. X would constitute a violation of Provisional Order 18, item 10 therein. A violation of a Provisional Order of the Rhode Island Supreme Court would, in turn constitute a violation of Rule 8.4(d).

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.