

ETHICS ADVISORY PANEL
Opinion #93-14, Request #344
Issued March 31, 1993

The inquiring attorney is a sole practitioner who shares office space and expenses with three other attorneys. The attorneys refer clients and cases among one another. On the attorney's letterhead is the inquiring attorney's name together with a list of attorneys' names designated as "associates". The attorney was recently appointed to a municipal zoning board. The attorney acknowledges the possibility of recusal as a board member, if a client or former client appears before the board. The attorney asks whether other attorneys in the office may represent clients before the zoning board.

The analysis begins with the facts that this "sole practitioner's" office is, under the Rules of Professional Conduct, really a law firm. The letterhead states that two associates are working for the inquiring attorney. Attorneys who hold themselves out to the public as being associated by placing their names on letterhead describing themselves as associates may be considered a firm.

Rule 1.10 (a) and the comments provide that:

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rule 1.7, 1.8(c), 1.9 or 2.2.

The comments to Rule 1.10 state that the "term "firm" included lawyers in a private firm, and lawyers employed in the legal department of a corporation or other organization, or in a legal services organization. Whether two or more lawyers constitute a firm within this definition can depend upon the specific facts . . . any two or more lawyers who, by signs, letterhead or any form of advertising, list their names in succession will be regarded as a firm for purposes of this Rule, notwithstanding disclaimers such as "an association of independent attorneys."

The Panel agrees that the attorney cannot represent a private client before the municipal zoning board on which he/she sits. Because the attorney is disqualified, all members of the inquiring attorney's law firm are disqualified pursuant to Rule 1.10 and its comments. In addition, The Panel cautions the attorney that "A lawyer should avoid even the appearance of professional impropriety". See Rhode Island Rules of Professional Conduct, Preamble.

The Panel's guidance is restricted to interpretations of the Rules of Professional Conduct and does not extend to issues under the State Ethics Code or any other rules, regulations or laws that may have bearing on the issues raised by this inquiry.