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ETHICS ADVISORY PANEL  
OPINION #93-52, REQUEST #391  
Issued August 25, 1993

The inquiring attorney is a member of a Rhode Island Professional Corporation engaged in the practice of law. A non-lawyer friend of the inquiring attorney will establish a collection agency in State X and desires a relationship with the Rhode Island law firm which, among other things, would include (i) the State X based collection agency's sending out letters to debtors on the Rhode Island law firm's letterhead; (ii) directing debtor responses to such demand letters to a State X post office box or telephone number and (iii) the based collection agency's follow up contact with such debtors. The Rhode Island law firm would be responsible for the supervision of the collection process and would receive compensation from all collections successfully made by the State X based collection agency.

Under the facts as presented, the Panel cautions that the activities of the State X based collection agency would constitute the practice of law and accordingly would be subject to State X laws, rules and regulations regarding law practice. Further, the Panel finds that the proposed arrangement would violate, among other things, (i) Rule 5.4(b) (a lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consists of the practice of law; (ii) Rule 5.4 (a law firm shall not share legal fees with a non-lawyer with certain exceptions not applicable here); (iii) Rule 5.5 (a lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law); (iv) Rule 7.1 (a lawyer shall not make false or misleading communication about the lawyer or the lawyer's services). The allowed use of the Rhode Island firm's letterhead by the State X collection agency would constitute a material misrepresentation of fact giving the impression that the writer of the letter is a member of the Rhode Island law firm and would constitute a violation of Rule 4.1 (a lawyer shall not knowingly make a false statement of material fact to a third person).

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.