

ETHICS ADVISORY PANEL
OPINION #93-95 REQUEST #439
Issued December 8, 1993

The inquiring attorney represented three (3) clients in a real estate matter that concluded in June of 1992. The inquiring attorney now seeks to represent one of the clients in an unrelated matter that involves another one of the clients. The inquiring attorney asks whether the proposed representation is permissible.

Rule 1.9 entitled "Conflict of Interest: Former Client" provides as follows:

A lawyer who has formerly represented a client in a matter shall not thereafter:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation; or
- (b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

Under the facts as described by the inquiring attorney, the matters are not the same or substantially related. The Panel therefore concludes that the inquiring attorney may undertake the proposed representation.