

ETHICS ADVISORY PANEL  
OPINION # 95-13, REQUEST # 572  
Issued May 4, 1995

The inquiring attorney represented a birthmother for the purpose of finding appropriate adoptive parents for her unborn child. The inquiring attorney interviewed potential couples and informed them that he/she represented the birthmother and that the adoptive parents would pay the inquiring attorney's legal fees. All parties insisted upon anonymity and all correspondence between the parties was through counsel. The inquiring attorney's law firm inadvertently forwarded the birthmother the legal bill which had the name of the potential adoptive couple.

As part of the process, the adoption agency insisted that the parental rights of both the birthmother and birthfather be terminated. The inquiring attorney states that the birthmother insisted that she did not know the birthfather's whereabouts. Once the adoption was complete the inquiring attorney closed the file and billed the adoptive couple.

Thereafter, the birthfather and birthmother petitioned the court for custody of the baby. The birthmother has requested her file from the inquiring attorney which includes the full identities of all the couples who were interviewed. The inquiring attorney's concern with relinquishing the entire file to the birthmother is the disclosure of the identities of all parties involved. The inquiring attorney asks whether he/she may edit any reference to the couples who were interviewed and/or can he/she withhold documents that contain the couples' identities.

Rule 1.17 entitled "Declining or Terminating Representation" section (d) addresses an attorney's obligation to assist the client upon withdrawal or termination of representation. That rule states:

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned.

The Panel renders advice based upon the Rules of Professional Conduct and not substantive law. The Rhode Island General Laws address substantive law and procedure for adoption proceedings. In Rhode Island the public is prohibited from inspecting records of an adoption proceeding unless disclosure of the information is granted by a court order. Rhode Island General Laws 1956 (1985 Reenactment) §§ 8-10-21 and 23-3-15.

0649

Page Two

#95-13, Request # 572

The Panel opines that the inquiring attorney has an obligation under Rule 1.17(d) to surrender papers and property belonging to the client in order to mitigate any prejudice to the clients' interests. According to the facts, all parties involved, including the birthmother, agreed that the identities of prospective adoptive parents were to remain confidential. The Panel believes that the inquiring attorney would not be in violation of the Rules by withholding the prospective and actual adoptive parents' identities.