

ETHICS ADVISORY PANEL
OPINION # 95-17, Request # 577
Issued March 23, 1995

The inquiring attorney represents a corporation owned by two fifty percent (50%) stockholders who constitute all of the officers and directors of the corporation. The inquiring attorney was requested by the corporation to pursue various legal matters. During the course of representing the corporation, Stockholder A sought the attorney's advice regarding a personal matter in another state. The inquiring attorney could not represent Stockholder A out of state but did render general advice in the matter.

Soon thereafter, Stockholder A resigned as an officer and director of the corporation and formed a new corporation. Stockholder A retains his/her fifty percent (50%) ownership in stock of the original corporation. The attorney asks if he/she can continue to represent the corporation and Stockholder B in the negotiations for a stock purchase or buyout with Stockholder A.

Rule 1.13 entitled "Organization as Client" addresses this inquiry. The Rule states in pertinent part:

(e) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

The Panel opines that the inquiring attorney may continue to represent the Corporation and Stockholder B subject to Rule 1.7 entitled "Conflict of Interest: General Rule." Pursuant to that Rule, the inquiring attorney must receive Stockholder A's consent to the representation.