

FINAL

ETHICS ADVISORY PANEL
OPINION # 95-52, - REQUEST # 626
ISSUED - DECEMBER 14, 1995

FACTS:

The inquiring attorney represented Co. A regarding patent and trademark services. The head of research at Co. A left to form a competing business, Co. B. Eventually, Co. A went out of business but the principal of A formed Co. C which the inquiring attorney has been representing since its incorporation. Recently, the inquiring attorney has been requested to represent Co. B. The inquiring attorney states: "Although Co. B & C are definitely competitors to some extent in the marketplace, the work we have done for Co. C does not involve subject matter that conflicts in any way with the subject matter of the services we are performing for Co. B and vice versa."

ISSUES PRESENTED:

The inquiring attorney asks whether if, he/she can represent Co. B without violating the conflict of interest rules.

OPINION:

Yes. Accordingly, there is no conflict of interest. If the matters do become adverse at some time in the future then the inquiring attorney must reasonably believe that the representation will not adversely affect the relationship with each client and each client must consent to the continuing representation of the other client before the inquiring attorney may continue the representation of either Co. B or C.

REASONING:

The Panel believes that the inquiring attorney's representation of Co. B. would not propose a conflict of interest under Rule 1.7, which states in part:

Rule 1.7 "Conflict of Interest: General Rule" -

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

Although Co. B and C are competitors, the inquiring attorney has stated the representation of Co. C is not directly adverse to Co. B.