

Final

ETHICS ADVISORY PANEL
OPINION 96-06, - REQUEST # 654
ISSUED - APRIL 10, 1996

FACTS:

The inquiring attorney represents the father of a minor child who is under guardianship of another. The Family Court ordered the guardian not leave the State of Rhode Island with the minor child pending a final determination on custody. The attorney has learned that the guardian did indeed leave the state with the child for three or four days.

ISSUE(S) PRESENTED:

Must the attorney, as an officer of the court, report the violation?

OPINION:

No.

REASONING:

Information learned by a lawyer during the representation of a client is presumed to be confidential. Rule 1.6(a). There are exceptions to the rule which may allow or require disclosure. Rule 1.6(b). Because of other obligations placed upon lawyers by the rules and by substantive law, some disclosures that may be adverse to a client are permitted. See: Rules 3.3 and 4.1.

In this case, the information received by the attorney from the client concerning the violation of the Family Court Order is protected under Rule 1.6 unless false evidence is offered to the court, which would make disclosure necessary under Rule 3.3(a)(2), which states: "A lawyer shall not knowingly: . . . (2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client."