

Final

**RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
OPINION NO. 97-15, REQUEST NO. 720
Issued July 10, 1997**

FACTS:

A former client of the inquiring attorney is currently under investigation by authorities for an alleged forgery of the attorney's signature. The investigating authorities have contacted the inquiring attorney and have provided him/her with a copy of a letter on the inquiring attorney's letterhead which was addressed to a creditor of the client. The letter advised the creditor that a case in which the inquiring attorney represented the client had settled and that the client would be paying the creditor amounts owed. The inquiring attorney states that he/she did not write or sign the letter. Authorities investigating the alleged forgery seek a written statement from the inquiring attorney to the effect that he/she was as not the author of the letter and did not sign it. Authorities have also advised the inquiring attorney that they will issue a subpoena for his testimony. The inquiring attorney does not represent the client in the alleged forgery matter.

ISSUE PRESENTED:

The inquiring attorney asks whether the Rules of Professional conduct prohibit him/her from giving a written statement or testifying in subsequent proceedings regarding the fact that he/she did not write or sign the letter.

OPINION:

The ethical duty of confidentiality imposed by Rule 1.6 does not prohibit the inquiring attorney from giving a written statement to authorities or testifying at proceedings that he/she was neither the author nor the signer of the letter.

REASONING:

The principle of confidentiality raised by this inquiry is given effect in two related bodies of law, the attorney-client privilege in the law of evidence, and the duty of confidentiality established in the Rules of Professional Conduct. See Comment to Rule 1.6. The comment explains:

The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law.

The confidentiality rule applies not merely to

matters communicated in confidence by the client but also to all information relating to the representation, whatever its source.

Thus, Rule 1.6 protects from disclosure a broader range of information. In re Ethics Advisory Panel, 627 A.2d 317, 322 (R.I. 1993).

Nevertheless, Rule 1.6(a) requires attorneys to keep confidential only information that relates to the representation. It provides:

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

The information that the inquiring attorney will reveal, i.e. that he/she did not author or sign a letter which is the subject of a forgery investigation, is not information relating to the representation of the client. Therefore, it is not protected and does not fall within the mandate of Rule 1.6(a). See Comm. on Professional Ethics of Nassau County Bar Assoc. Op. 94-12 (1994) (lawyer whose client forged lawyer's signature on checks that client directed others make payable to lawyer may sign forgery affidavits requested by makers of checks.) The Panel therefore concludes that the Rules of Professional Conduct permit the inquiring attorney to give a statement and testify at proceedings to confirm that he/she did not write or sign the letter. The Panel cautions that pursuant to Rule 1.6, the inquiring attorney may not disclose information relating to the substance of the letter or other information relating to the representation of the client.