

ETHICS ADVISORY PANEL
OPINION # 95-7, REQUEST # 565
Issued March 23, 1995

The inquiring attorney, a sole practitioner, was recently appointed a probate judge for City X. The attorney is aware that he/she is prohibited from representing clients before City X's City Council or any committees of the City Council. The inquiring attorney asks whether he/she may represent clients before City X's Zoning Board. The inquiring attorney states that the zoning matters are unrelated to any matter heard in the Probate Court.

Probate judges are subject to the Canons of Judicial Ethics. The Rhode Island Supreme Court Ethics Advisory Panel does not have jurisdiction over the interpretation of the Canons of Judicial Ethics. Accordingly, the Panel is unable to opine on the inquiring attorney's behavior as a probate judge. However, as a lawyer, the inquiring attorney's conduct is governed by the Rule of Professional Conduct.

Rule 1.7 entitled "Conflict of Interest: General Rule" provides in pertinent part as follows:

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

In this matter, the lawyer may not represent a client if the representation of that client will be materially limited by the lawyer's responsibilities to another client or to a third person or by the lawyer's own interests.

The Panel questions whether the inquiring attorney can function as an effective advocate against his/her own employer or any governmental unit that has appointive authority over his/her municipal employment.

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The Panel's guidance is restricted to interpretations of the Rules of Professional Conduct and does not extend to issues under the State Ethics Code or any other rules, regulations or laws that may have bearing on the issue raised by this inquiry.