

Final

**Rhode Island Supreme Court  
Ethics Advisory Panel Op. 2013-03  
Issued September 12, 2013**

FACTS

Individuals who are not lawyers have approached the inquiring attorney about being a part of a business enterprise. The nonlawyers want to start a consulting firm. The inquiring attorney states that the nonlawyers want to provide legal consulting, as well as business and various other forms of consulting services. Under the proposed arrangement, the inquiring attorney would be a partner in the consulting company to run its legal department. The inquiring attorney states that “[r]unning its legal department, in their eyes, includes providing legal advice to the company and its employees, providing legal services to clients of the company, and bringing in legal clients aside and apart from any of the other consulting departments.” The nonlawyers envision a law firm that is being operated by the inquiring attorney under the name of the consulting firm. The consulting firm would provide overhead expenses, including advertising, and in return, the inquiring attorney would “split” his/her fees with the firm, with the client’s consent. The attorney would be free to conduct his/her practice without oversight or pressures from the partners, and would be fully independent in providing legal advice to clients.

ISSUE PRESENTED

The attorney asks (1) whether this arrangement violates Rule 5.4 or other Rules of Professional Conduct; and (2) whether there is a way to arrange the relationship between lawyers and nonlawyers to prevent unethical behavior.

OPINION

- (1) Yes, the proposed arrangement violates Rule 5.4 and Rule 5.5 of the Rules of Professional Conduct; and
- (2) No.

REASONING

The proposed arrangement is prohibited by Rule 5.4. The rule does not permit fee-sharing; does not permit partnerships with nonlawyers if any of the activities of the partnerships consist of law practice; and does not permit lawyers to practice law with, or in the form of, a professional association in which nonlawyers have an interest or in which nonlawyers are corporate directors, officers, or have positions of similar responsibility. See also Art. II, Rule 10 of Rhode Island Supreme Court Rules (all shareholders, directors, officers, partners, and managers of limited liability entities that practice law must be attorneys

licensed to practice law.) With four exceptions, which have no application to the instant inquiry, Rule 5.4(a) states: “A lawyer or law firm shall not share legal fees with a nonlawyer[.]”

Rule 5.4(b) addresses partnerships with nonlawyers:

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

Rule 5.4(d), which addresses law practice in the form of professional corporations or associations, states:

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

The arrangement also runs afoul of Rule 5.5(a) which states:

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

The Panel concludes that the proposed consulting firm is not permitted by the Rules of Professional Conduct, and advises the inquiring attorney to decline the invitation to become part of it. As to the inquiring attorney’s second question, the Panel responds in the negative.