

Final

Rhode Island Supreme Court Ethics Advisory Panel
Opinion No. 2004-02 Request No. 876
Issued March 5, 2004

FACTS:

The inquiring attorney serves as guardian for an individual. He/she accounts for all financial transactions involving the individual to the probate court and submits copies of the accounts to the individual's mother and father as heirs-at-law. On two occasions, the mother objected to the amounts spent on the individual's personal needs. Each time the probate court considered the objections and overruled them.

The mother, who is elderly, now suffers from dementia and requires a guardian. Her daughter (sister of the inquiring attorney's ward) has asked the inquiring attorney to represent her in a petition for guardianship over the mother. Further, as the daughter is a resident of Connecticut, she has asked the inquiring attorney to serve as resident agent, and if necessary, guardian of the mother's estate if the daughter is unable to serve.

ISSUE PRESENTED:

The inquiring attorney asks whether he/she has a conflict of interest if he/she represents the daughter as guardian for the mother of an individual while he/she also serves as guardian for the individual.

OPINION:

No conflict of interest is presented where the inquiring attorney simultaneously serves as guardian for an individual and as attorney for the guardian for the individual's mother, or if necessary, as guardian.

REASONING:

Notwithstanding the mother's objections to financial decisions that the inquiring attorney as guardian made for the son's estate, the Panel believes the inquiring attorney may simultaneously represent the guardian of the mother's estate, or if necessary, serve as guardian if the daughter is unable to serve. The Panel does not believe that the lawyer's responsibilities to the son materially limit the lawyer's responsibilities as attorney for the daughter as guardian, or as guardian of the mother if the daughter is unable to serve. See Rule 1.7(b)(lawyer shall not represent client if representation will be materially limited by lawyer's responsibilities to another client, to a third person, or to the lawyer's own interests, unless lawyer reasonably believes the representation will not be adversely