

Final

**Rhode Island Supreme Court
Ethics Advisory Panel Opinion No. 2010-05
Issued September 9, 2010**

Facts:

A long-standing client of the inquiring attorney has asked the inquiring attorney to represent it in a collection matter against an individual who owes an unpaid balance due for funeral expenses. The inquiring attorney formerly represented the client's debtor four years ago in a misdemeanor case. The inquiring attorney states that the criminal matter was resolved within two months, and that he/she never represented the individual thereafter. The individual owes a remaining balance for the inquiring attorney's legal services. The inquiring attorney sends the individual a bill every month and has received sporadic payments.

Issue Presented:

The inquiring attorney asks whether he/she may represent a client in a collection matter against an individual whom the inquiring attorney formerly represented in a misdemeanor proceeding.

Opinion:

The Panel concludes that it is not a conflict of interest for the inquiring attorney to represent a client in a collection matter against an individual whom the inquiring attorney formerly represented in a misdemeanor case.

Reasoning:

The individual whom the inquiring attorney represented in the misdemeanor matter is a former client. Therefore, Rule 1.9 entitled “Duties to Former Client” applies. The inquiring attorney’s representation of the individual in the misdemeanor matter has terminated, and the relationship that now exists between the attorney and the individual is that of creditor-debtor. In pertinent part, Rule 1.9 states:

“Rule 1.9. “Duties to Former Client,” (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

* * *

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

- (1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or
- (2) reveal information relating to the representation except as those Rules would permit or require with respect to a client.”

Though the interests of the collection client are materially adverse to the interests of the inquiring attorney’s former client, the two matters are neither the same nor substantially related. The only aspect in which the two matters bear any semblance is that both the collection client and the inquiring attorney have provided services to the same individual without full compensation.

The Panel concludes that it is not a conflict of interest for the inquiring attorney to represent a client in a collection matter against an individual whom the inquiring attorney formerly represented in a misdemeanor case. The Panel further advises that pursuant to Rule 1.9(c), the inquiring attorney shall not use information relating to the former representation to the disadvantage of the former client; or reveal information relating to the representation of the former client, except as Rule 1.6 or other rules would permit.

