

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

His association with the municipality may make him privy to some information which could influence the outcome of the matter and correspondingly raise a question of confidence and trust.

If there is doubt as to whether or not the acceptance of professional employment will involve a conflict of interests between two clients, or may require the use of information obtained through the service of another client, the employment should be refused. Canon 9 provides, "a lawyer should avoid even the appearance of professional impropriety."

EC 5-16 in part provides:

"Thus before a lawyer may represent multiple clients, he should explain fully to each client the implication of the common representation and should accept or continue employment only if the clients consent."

In prior opinions of this Committee and of other Professional Ethics Committees, it has been held that a public body cannot consent to dual representation if a conflict is involved. See: N.Y. State 110 (1969), N.Y. State 111 (1969) and opinions cited therein; Drinker, Legal Ethics p. 120.

It is the opinion of the Committee that a lawyer in these circumstances may not represent private clients in matters before administrative agencies of the municipality; irrespective of consent by the municipality.

Opinion #144 - 7/2/70 (23-70)

Topic: Advertising: Letterheads,  
Partnerships  
Associates  
Foreign Attorneys

Digest: In the absence of affiliation it is improper to designate as associates lawyers practicing with an out of state law firm; partnerships may be properly formed between lawyers admitted to practice in different states provided there is no use of misleading representation.

Code\*: DR 2-102(D)

QUESTION

A. May a New York law firm list on its stationery as associates the names of members of an out-of-state law firm, none of whom are admitted to practice in New York?

B. May a partnership be formed between or among lawyers in different jurisdictions?

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OPINION

It is improper for a firm to designate as associates lawyers practicing with an out-of-state law firm with which it is not affiliated. cf. Drinker, Legal Ethics 205 (1953); N.Y. City 684 (1946), ABA Inf. 1097 (1969). It follows that listing the names of such lawyers on its stationery is prohibited irrespective of whether the jurisdictional limitations of their admittance are indicated.

In connection with the formation of a partnership DR 2-102(D) provides:

"A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations on those members and associates of the firm

not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction."

The above quoted rule recognizes that partnerships may properly be formed between lawyers admitted to practice in different states, if there is no use of a misleading name or other representation which would create a false impression as to the professional position or privileges of a member not locally admitted. See N.Y. City 684 (1946); N.Y. City 700 (1946); ABA 316 (1967).

Opinion #145 - 7/2/70 (28-70)

Topic: Appearance of impropriety;  
Conflict of Interest;  
Confidences of Client

Digest: Office holder should abstain from participating in a matter handled by his former law firm when he had been a firm member.

Code\*: Canon 9  
EC 4-5, 4-6, 5-1, 9-2  
5-14; 5-15  
DR 4-101

QUESTION

A lawyer is an elected member of a City Council and a partner in a law firm in that city. A corporate client of his law firm sought a franchise from the City Council to operate in the City and the lawyer abstained from voting on grounds of a conflict of interest. A franchise was granted to his firm's client, however, as a result of the Council's vote. A motion to rescind the franchise is about to be brought to a vote in the Council and the lawyer, who will have left his present firm when the issue of rescission comes to the floor for a vote, has asked whether in view of the change of his relationship to the client, he is still ethically bound to abstain from voting. As a partner of his law firm, the lawyer has been privy to confidential information concerning the client in general and privy to specific and confidential information material to litigation which has arisen as a result of the original grant of the franchise to the client.