

## Loose Lips Sink Ships

by  
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"Loose lips might sink ships" Americans were told in a World War II poster. The meaning of the slogan was simple and clear: Do not divulge whatever information you have about ship sailing times and destinations. If the wrong set of ears heard the information, disaster could follow.

Like Americans during World War II, lawyers have a duty to protect the confidentiality and secrecy of information from or about their clients.

Every client places this trust in her lawyer. A lawyer must not assume that a listener already knows this information and must guard constantly against inadvertent disclosure. A recent admonition illustrates the point.

A.B. was charged with improper sexual contact with a minor. A.B. maintained consistently to his family members that there had been no sexual contact at all.

A.B. had several meetings with a lawyer, Y.Z., during which A.B. requested Y.Z. to represent him. During all but one of these meetings, other members of A.B.'s family were present. During the meetings with family members present, matters such as the charges against A.B., the police report and witness statements were discussed. A.B. did not, however, state whether he had committed the alleged offense.

A.B. also had one private meeting with Y.Z. During this meeting, A.B. told the lawyer that A.B. had consensual sexual contact with the minor. Y.Z. did not represent A.B. At trial, A.B. was convicted.

A.B.'s parents then met with Y.Z. During this meeting, A.B.'s parents repeatedly requested Y.Z. to represent A.B. on appeal, based in part on A.B.'s statements to them and trial testimony that he had not had sexual contact with the minor. Y.Z. eventually told A.B.'s parents that A.B. had told Y.Z. that A.B. did not deny sexual contact with the minor.

The disclosure was not without consequences to A.B. A.B.'s spouse stated to the Director that although there had been problems in her marital relationship with A.B., whatever faith she had in him was irretrievably lost when she heard what Y.Z. revealed of A.B.'s confidences, and that she thereafter commenced divorce proceedings.

That Y.Z. did not charge A.B. or perform any services in the matter does not change the analysis. A.B. spoke with Y.Z. to obtain legal advice or seek legal representation. Therefore, A.B. had a reasonable expectation that what he told Y.Z. would be kept in confidence.

The lawyer presumed that A.B.'s family was actively involved in his legal defense and that they were aware of the confidential information (the admission of consensual sexual contact). Although this assumption may have been understandable, it was incorrect.

No ships were sunk, but loose lips can cause harm. When confidential or secret information is disclosed, even inadvertently, clients frequently become upset and complain to the Director's Office. In this area, discretion is the best prevention.