

REPORT . . . LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

By

R. Walter Bachman, Jr., Administrative Director
Minnesota Office of Lawyers Professional Responsibility

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THE TEN MOST-ASKED LEGAL ETHICS QUESTIONS

As a service to Minnesota attorneys and to the public, the staff of the Lawyers Professional Responsibility Board provides informal interpretations of the Code of Professional Responsibility. We receive well over 1,000 such requests per year, most of which are answered by telephone. Since many of the same questions are directed to us repeatedly, I have listed below, in question and answer form, ten of the most common questions posed.

- QUESTION: Attorney A, Attorney B, and Attorney C are sole practitioners who share office expenses and overhead. Is it permissible for them to use the same letterhead, styling themselves as "A, B, and C"?**

ANSWER: No. Several ethics opinions hold that such an arrangement is improper as tending to mislead the public to believe that a partnership exists when none, in fact, does.

- QUESTION: Is it proper for a law firm to print the names and titles of investigators, adjusters, photographers, legal assistants, or other paralegal employees on their law firm letterheads?**

ANSWER: No. See Lawyers Professional Responsibility Board Formal Opinion No. 8.

- QUESTION: When an attorney is faced with an ethics complaint lodged by a client, defense of which would require the attorney to divulge confidential communications with that client, may the attorney disclose privileged information in his response to the complaint?**

ANSWER: Yes. DR 4-101(C)(4) provides that a lawyer may reveal confidences or secrets necessary to defend himself against an accusation of wrongful conduct.

- QUESTION: Does a lawyer have a lien upon clients' papers, money, or property in his possession to secure payment of attorneys' fees from that client?**

ANSWER: The 1976 Legislature abolished the prior statutory lien, effective August 1, 1976. A lingering question remains unresolved: i.e., whether a lawyer may assert lien rights upon papers

which came into his possession prior to August 1, 1976. An opinion of the Attorney General has been requested on this subject and may be forthcoming in the near future.

5. **QUESTION: May an attorney who originally represented a client in various business dealings subsequently represent the client's spouse in a marriage dissolution action brought against the former client?**

ANSWER: Not without the express consent of the former client, since the former client may claim that the attorney has had access to financial information or business secrets which are privileged.

6. **QUESTION: May a law firm which deposits the attorneys' fees portion of a lawsuit settlement into its trust account disburse those funds by writing trust account checks for business expenses, such as employees' salaries, bar association dues, and other business purposes?**

ANSWER: No. The attorneys' fee portion of a settlement which is properly deposited in a trust account should be withdrawn either directly to the attorneys or by payment to the law firm business account. Payment of business expenses on trust account checks improperly leads the recipient of the check to believe that clients' trust money is being used for payment of debts. Also, retention of earned attorneys' fees in a trust account for a lengthy period would constitute commingling and may destroy the trust character of the account.

7. **QUESTION: May an attorney who is establishing a new office, hiring an associate, or taking in a new partner place a dignified, paid advertisement in local newspapers to announce that fact?**

ANSWER: No. The present disciplinary rules prohibit all forms of paid advertisements in newspapers, whether dignified or not.

8. **QUESTION: May a Minnesota attorney be jointly licensed as a stockbroker, real estate broker, or insurance agent?**

ANSWER: Yes, but any attorney who is practicing law and simultaneously engaging in any other form of business endeavor should take precautions to avoid misunderstandings. For example, it would be improper for an attorney who is also licensed as a real estate broker to attempt to conduct his law practice and realty business out of the same office.

9. **QUESTION: When a lawyer holds the settlement proceeds of a lawsuit in trust, may he disburse his earned attorneys' fees directly to his law firm without prior consent of the client?**

ANSWER: Not if he knows, or has reason to believe, that the client disputes the attorneys' fee. Any portion of the fee which is disputed must remain in trust until the dispute is resolved, either by agreement, arbitration or litigation.

10. **QUESTION: If, following trial of a civil case to the court, the judge requests the attorney for one side to draw proposed findings and to send them directly to the judge without notice or copy**

to the adverse party, may the attorney comply with the judge's request?

ANSWER: In order to avoid a violation of DR 7-110(B), the attorney would be required to send a copy of proposed findings to adverse counsel.

Obviously, altered factual circumstances may change the answers to some of these questions. We suggest that any attorney who is faced with a problem of legal ethics should first refer to the Code of Professional Responsibility, and if the solution to the problem is unclear he may feel free to contact our office for assistance.