

You have indicated that former attorney "X", who surrendered his license to practice law which was then revoked and has not been restored, is presently employed as an insurance adjuster with an insurance adjusting company of which he is the Chief Executive Officer. You further indicate that the law firm of A, B, and C, which is comprised of three attorneys, two of whom were formerly associated in the law firm of which former attorney "X" was a founding partner, seek to retain the insurance adjusting company for the purpose of reviewing the law firm's various files and, on behalf of the law firm, to negotiate settlements subject to the law firm member attorney's approval. In addition, you indicate that former attorney "X" will prepare drafts of pleadings for the law firm member attorneys, will interview witnesses, and will make recommendations to all three attorneys regarding settlement value. You have advised that former attorney "X" will not meet the clients of A, B and C, nor will "X" be involved in any hearings, depositions, or any portion of the trial, nor will he hold himself out as an attorney in any matter.

You have requested that the Committee consider the propriety of law firm A, B and C becoming a principal client of the adjusting company and using the services of former attorney "X" in the manner described above.

The appropriate and controlling rule is Disciplinary Rule 3-101(B) [DR:3-101] which states that:

A lawyer, law firm or professional corporation shall not employ *in any capacity* a lawyer whose license has been suspended or revoked for professional misconduct, during such period of suspension or revocation, if the disciplined lawyer was associated with such lawyer, law firm or professional corporation at any time on or after the date of the acts which resulted in suspension or revocation. (emphasis added)

It is the opinion of the Committee that since former attorney "X" is both the Chief Executive Officer providing administrative services to the insurance adjusting company and the specific employee who would provide to the law firm the services as described, such employment would be improper under the specific disciplinary rule cited. The Committee is of the view that the rule expressly prohibits former attorney "X" from rendering any services to the two attorneys who are currently principals in the law firm of A, B and C but who were formerly associated in the law firm which was founded by former attorney "X". Furthermore, the Committee is of the belief that the prohibition extends by imputation to the third principal member of the law firm. Thus, the law firm of A, B and C may not properly become a client of the adjusting company and may not properly utilize the services of "X" in the capacity described.

Committee Opinion Reconsideration
September 21, 1989