

Committee Opinion  
October 24, 1988

LEGAL ETHICS OPINION 1145

COUNTY ATTORNEY – ATTORNEY-  
CLIENT RELATIONSHIP –  
DISCLOSURE: STATUTORY  
REQUIREMENT TO ADVISE BOARD OF  
SUPERVISORS OF THE LEGALITY OR  
ILLEGALITY OF THE CLAIM.

You have advised that as county attorney you are required to represent the county in any claim for payment brought before the board of supervisors and advise the board as to the legality of illegality of any such claim, pursuant to § 15.1-550, of the Code of Virginia. This provision further requires the county attorney to seek the advice of the Attorney General or State Auditor of Public Accounts as to any claim which, in the opinion of the county attorney or any six freeholders of the county, is not in proper accounting form or which may be illegal. If the claim is deemed illegal, then the attorney for the Commonwealth shall appeal the decision from the board to the Circuit Court of the county. Whenever any claim allowed by the board is declared illegal by a court of competent jurisdiction, the Commonwealth's attorney or the county attorney shall institute proper proceedings in the Circuit Court of his county if such amount has already been paid.

You wish to know whether a conflict exists under the county attorney's statutory obligation imposed by § 15.1-550 of the Code of Virginia and the county attorney's obligation to his client.

The Committee believes that the provisions enumerated in the statute do not conflict with the attorney's obligation to his client, as the attorney's duty is to represent the county before the board and, in doing so, shall advise the board of any claim which in the attorney's opinion, or in the opinion of any six freeholders of the county, is illegal or in improper form. If a claim is allowed, notwithstanding the attorney's advice, the county attorney shall seek the advice of the Attorney General or the State Auditor of Public Accounts who will have the Commonwealth's attorney, not the county attorney, appeal the board's decision if deemed illegal.

The Committee opines that the statutory obligations vested in a county attorney, pursuant to § 15.1-550, Code of Virginia, 1950, as amended, does not violate any of the disciplinary rules or ethical considerations under the Virginia Code of Professional Responsibility, nor does it create a conflict between what statutory law requires an attorney to do and an attorney's loyalty to his client. The Committee would suggest making full and adequate disclosure to the board of your statutory obligations, as well as the duty to represent the county.

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