

LEGAL ETHICS OPINION 1551

CONFLICT OF INTEREST - PERSONAL  
INTEREST AFFECTING  
REPRESENTATION: DISCLOSURE TO  
CLIENT OF ATTORNEY'S MARRIAGE  
PLANS OR MARRIAGE WHEN  
(POTENTIAL) SPOUSE'S COMPANY IS  
COMPETITOR TO ATTORNEY'S  
CLIENT.

You have presented a hypothetical situation in which Attorney A has become engaged to a client who is a shareholder and officer of a company selling consulting services to the federal government. Attorney A also represents several competitors of the client/fiancee. From time to time, those competitors may bid jointly with client/fiancee's company on certain contracts for the federal government; may also bid on the same projects as client/fiancee's company, i.e., in competition with that company; and may submit bids on other projects. You indicate that Attorney A does not specifically know what projects each company is bidding on. Attorney A does not make bid/no bid decisions for client/fiancee's company nor is Attorney A involved in the competitive decision-making process for that company.

The facts you present also indicate that Attorney A maintains an office separate from that of the client/fiancee, secures any proprietary information in that office, and does not discuss any proprietary information with the client/fiancee.

You have asked the committee to opine whether, under the facts of the inquiry, Attorney A has a duty to tell those clients who may be competitive to the fiancee's company about the marriage plans. You have also inquired as to whether the actual marriage would alter the committee's opinion.

The appropriate and controlling Disciplinary Rules relative to your inquiry are DR:5-105(B) and (C) which prohibit respectively a lawyer from continuing multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client except if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each; DR:5-101(A) which provides that a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client may be affected by his own financial, business, property, or personal interests, except with the consent of his client after full and adequate disclosure under the circumstances; and DR:4-101(B) which, absent consent from the client, prohibits a lawyer from knowingly revealing a confidence or secret of his client or using that confidence or secret to the disadvantage of the client or to the advantage of himself or a third person.

With regard to DR:5-105(B), the committee has repeatedly opined that simultaneous representation of clients who have competing interests poses potential conflicts

<sup>1</sup>The committee notes that DR 5-101(a) does not require the imputation of a personal conflict to other lawyers in the firm. Thus, the other lawyers are not vicariously disqualified as a result of Attorney A's personal conflict.

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notwithstanding dissimilarity of the subject matter. See LE Op. 706. However, the committee is cognizant that, under the facts you present, while the multiple clients may be in competition with each other in a business setting, there is no indication that any legal adversity presently exists. Thus, the committee is of the opinion that unless and until any two or more clients become adverse to each other in legal matters, it would not be per se improper for Attorney A to continue representing those companies which may compete with each other for government contracts.

To the extent that your personal or spousal relationship creates a personal interest that may affect your independent professional judgment on behalf of a client, the committee is of the view that DR:5-101(A) permits such personal conflicts to be cured, and representation continued, with consent of the client(s) after full and adequate disclosure.  
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