

NEW HAMPSHIRE BAR ASSOCIATION

Office Sharing: Sharing Common Space With Realtor

Ethics Committee Advisory Opinion #1982-3/13
11/9/82

Reviewed by Board of Governors 11/18/82

FACTS: An attorney proposes to enter into an arrangement with a real estate broker whereby the broker and the attorney will share a conference room which is situated contiguous to their respective offices. It is represented that the attorney and the broker will make arrangements in advance to reserve the conference room for their exclusive use for closings, meetings with clients, etc. It is further represented that when the attorney is not in exclusive possession of the room, he will remove all client files, documents and other records which must be kept confidential in order to preserve client confidences and secrets. Finally, it is represented that the door leading from the conference room to the adjacent office of the attorney will be kept locked during the periods that the conference room is not in use by the attorney.

ISSUE: Does the arrangement described above comply with the provisions of the New Hampshire Code of Professional Responsibility?

RESPONSE: The primary ethical issue raised by the proposed arrangement is whether the same complies with the requirement of Canon 4 that an attorney preserve the confidences and secrets of the client and with the requirement of DR 4-101 (D) that a lawyer exercise reasonable care to prevent his employees, associates and others whose services are utilized by him from disclosing or using confidences or secrets of a client.

Based upon the facts represented above, it is the opinion of the Committee that the attorney involved has taken reasonable steps to ensure that the confidences and secrets of his clients will not be compromised by the proposed space-sharing arrangement. However; to further guard against the possibility of even an inadvertent breach of client confidences and secrets, the Committee recommends that it be made a regular office practice of the attorney that the door leading from the conference room to the adjacent real estate broker's office be kept locked at all times that the room is in use by the attorney exclusively as an effective extension of his law offices.

Subject to this further condition and to the representations made by the inquiring attorney with respect to the proposed arrangement, the Committee finds no impropriety with respect to the same. However, the attorney should be sensitive to the fact that the arrangement poses special problems from the standpoint of preserving client confidences and secrets, and he and his staff should be sensitive to that fact to ensure that no breach of confidentiality occurs.