

ADVISORY ETHICS OPINION 93-05

SYNOPSIS:

With appropriate safeguards in place, an attorney may participate in a business association which provides mediation, arbitration and dispute resolution services, independent of his or her law practice.

FACTS:

Attorney A wishes to form a business association with other attorneys and non-attorneys to provide mediation, arbitration and dispute resolution services to the public. The association (in this instance a partnership) will not offer or provide legal services and will recommend that all parties obtain independent legal counsel. We take that to mean no legal advice will be offered by Attorney A or any members of his law firm.

DISCUSSION:

We find no provision of the Code of Professional Responsibility which would bar the proposed activity. DR 3-101(A) provides that a lawyer shall not aid a non-lawyer in the unauthorized practice of law. DR 3-102 prohibits sharing legal fees with non-lawyers. DR 3-103 provides that a lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law. None of these rules apply to the facts before us, since the dispute resolution company will not provide or charge fees for legal services.

Nonetheless, it is the opinion of this committee that certain safeguards must be put in place to avoid confusion. Services provided by the dispute resolution company should be provided in a location which is physically distinct from Attorney A's law practice. In addition, no advertising for or marketing of the dispute resolution company should be associated with advertisements for Attorney A's law practice. Finally, the dispute resolution company should not act as an arbitrator or mediator in any dispute involving a client of Attorney A's law firm, except in a matter in which Attorney A's law firm has had no involvement.

Rule 4 of the Rules of Procedure for this Committee, permit us to issue an opinion to any member of the Bar who is a member of the Vermont Bar Association on the propriety of professional conduct in which the member proposes to engage. We have, therefore, limited our opinion to the activities of the requesting attorney.