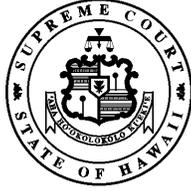


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FORMAL OPINION NOS. 18 and 22

SHARING OFFICE SPACE

Where a law firm sublets part of its offices to nonlawyers and agrees to make available secretarial services on a cost sharing basis, the arrangement is permissible as long as each of the parties maintains a separate identity and there is neither "feeding" of clients to the lawyers nor nonlawyer influence over the lawyers, or sharing of fees. (No. 18).

It is not improper for an attorney to enter into an office and expense sharing arrangement with a nonlawyer so long as the separate business entities are distinct to callers and visitors and the nonlawyer does not solicit for or feed cases to the lawyer. (No. 22).

REQUESTING PARTY'S SUMMARY STATEMENT OF FACTS, PROBLEM(S), AND QUESTION(S):

A law firm wishes to sublet part of its offices to two nonlawyers. The law firm will allow the nonlawyers to use the reception and conference rooms, and possibly avail themselves of secretarial services on a shared cost basis. The nonlawyers have a separate phone line, number, and ring. The law firm's attorneys have advised the nonlawyers not to in any way create an impression they are soliciting legal business for the attorneys. (No. 18).

An attorney wishes to share his offices with a Certified Public Accountant. The attorney and the accountant will sign a separate lease for their respective halves of the office. Each will have separate offices. They will share a common reception area. It is to be assumed that they will share the services of the same receptionist and secretary. The arrangement is for economical purpose only. (No. 22).

*The Disciplinary Board's mission is to maintain the integrity of the legal profession
and protect the public from professional misconduct by attorneys.*

ISSUE(S) AND RELEVANT SECTIONS OF
HAWAII RULES OF PROFESSIONAL CONDUCT:

Would such an arrangement violate:

HRPC 7.3(a) A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted has a family, close personal, or prior professional relationship with the lawyer.

HRPC 7.2(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a not-for-profit lawyer referral service or qualified legal assistance organization, which charges, in addition to any referral fee, may include a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall be used only to pay the reasonable operating expenses of the service or organization and to fund public service activities of the service or organization, including the delivery of pro bono legal services; and

(3) pay for the purchase of a law practice in accordance with Rule 1.17 of these Rules.

HRPC 5.4(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(Nos. 18 and 22)

DISCUSSION

Two ethical issues are posed by this fact situation. The first is whether or not the arrangement creates a feeder situation for the attorney. The situation whereby a law firm shares space with a nonlawyer, in itself, is not improper. It becomes improper only if the nonlawyer solicits clients for the attorney or consistently recommends the attorney to handle the nonlawyer's client's legal problems.

The second problem arises if the attorney and nonlawyer conduct business in such a way as to function as or create the impression of being a partnership. Clearly, under the disciplinary rules, a lawyer may not form a partnership with a nonlawyer if even part of the function of the partnership is rendering legal services. HRPC 5.4(b). Therefore, there must be no division of fees. HRPC 5.4(a). Nothing prohibits the law firm from employing services of nonlawyers on a strict salary or fee basis. It must be clear to clients of both the attorney and the non lawyer there exist two separate businesses. Ill. Op. 203 (2/10/61). This can be effected by signs on the door clearly showing the separate businesses and members of each. The reception area should be set up so that visitors do not feel they are only in a law office. Again, a sign or divider designating the separation is helpful. Separate telephone lines are desirable; however, if the phone line is shared, the secretary or receptionist must not answer the phone in a way to indicate to clients of the attorney that they are calling a non lawyer's office, or vice versa. This may be achieved by answering simply giving a telephone number. (No. 22).

OPINION

A law firm, or attorney, may sublet part of its offices to nonlawyers provided the latter do not serve to solicit or "feed" potential clients to the law firm, and there is a clear nonmisleading distinction to visitors between the law and business offices (Nos. 18 and 22).

DATED: Honolulu, Hawai'i, March 10, 1978 (No. 18)
Honolulu, Hawai'i, October 13, 1978 (No. 22)

UPDATED: Honolulu, Hawai'i, June 28, 2001

Carroll S. Taylor
Chairperson, Disciplinary Board

UPDATED: Honolulu, Hawai'i, March 19, 2015



Hon. Clifford L. Nakea (Ret.)
Chairperson, Disciplinary Board