

DELAWARE STATE BAR ASSOCIATION
COMMITTEE ON PROFESSIONAL ETHICS

OPINION 1979-3

A Delaware law firm ("the firm") requests this committee's opinion on the propriety of sharing office space with a C.P.A. office.

The firm maintains an office in the City of Newark which is used approximately two to three days per week. It is used only when the attorneys are present. On those days when the attorneys are not present, the accounting firm wishes to employ the office space. The accountant is willing to pay approximately one-half the rent and both names would be listed on the doorway of the office. On the other hand, the accountant would not be present in the office on the days in which the attorneys would staff the office. Neither would the accountants employ the receptionist and the accountant would maintain a private phone line. The splitting of fees would not be involved, but there might be occasions for cross recommendations for services based on the respective professional requests.

Question

The question to be determined is whether the firm may ethically share the rental of office space with an accountant?

Answer

The law firm may share the rental of office space with a C.P.A. if the firms maintain total separation of identity and employment of the office.

Discussion

The association of a lawyer and a certified public accountant is not per se unethical. The unethical conflict occurs when the association is or could be employed as a means of providing each other business as an indirect method of advertising legal services, or as a method of sharing fees or responsibility for legal business between the lawyers and a layman. The precautions taken in this case by the firm and the C.P.A. to keep the names separate, to employ separate receptionists, utilize separate phone lines, and to divide the responsibility for the office time between the two, as well as to prevent any fee splitting, would be sufficient precautionary measures to avoid the possible evils of the sharing of office space. Although it is impossible without visual inspection to be certain that the offices are distinct and separate, our opinion assumes a degree of distinction that is unmistakable to the ordinary layman. It would appear from the facts that the sharing of rent for the office

in this case is for the convenience of the two offices only.

This factual situation would be consistent with the ruling in an opinion Committee on Professional Ethics of the American Bar Association dated February 27, 1963; which considered the sharing of office space by a lawyer and a public accountant. The ABA committee concluded that such a sharing of office space was not improper per se. Unethical conduct only occurs when the office of the public accountant is used as a "feeder" of legal business to the attorney, as an indirect method of advertising for the attorney, or as a device to share fees or responsibility for legal business between an attorney and a layman. Since none of these factors are found in the present case, it would appear that the sharing of office space would not be prohibited by the code of professional responsibility. Two disciplinary rules seem applicable. DR3-102 prohibits the sharing of legal fees with a non-lawyer with certain exceptions, none of which are applicable. DR3-103 prohibits a lawyer from forming a partnership with a non-lawyer if any of the activities of the partnership consists of the practice of law. The facts as described in the letter requesting the opinion do not show a violation of either of these two prohibitions.

June 22, 1979