

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

December 14, 1984

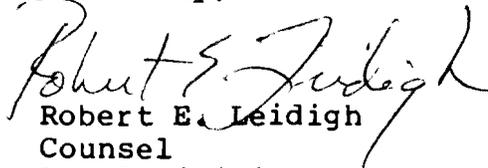
Charles R. Martin
Attorney at Law
P.O. Box 80800
San Marino, CA 91108

Re: Your Request for Advice
Our No. A-84-301

Dear Mr. Martin:

We are in receipt of your request for advice. Because we have previously rendered advice as to very similar circumstances, it is more expeditious to respond to your request by enclosing a copy of that previous advice. If, after reviewing the enclosed materials, you still desire our further advice, please notify us to that effect.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosures

CHARLES R. MARTIN

ATTORNEY AT LAW

P. O. BOX 80800

SAN MARINO, CALIFORNIA 91108

CITY OF SOUTH PASADENA (818) 799-9101

CITY OF IRVINDALE (818) 962-3381

DEC 7 2 26 PM '84

December 5, 1984

Fair Political Practices Commission
1100 "K" Street
Sacramento, California 95814

Gentlemen:

I am an attorney at law, and serve as contract city attorney for three cities (and City Manager and Redevelopment Agency Executive Director of one of the three cities). A former employee of mine, now an independent attorney, 8 years ago took over and now maintains my former law offices. Now it would be convenient for me to sublease one of his offices. My obligation would be for actual rental value and cost sharing of library, Xerox, Lexis, janitorial, and miscellaneous. The two law firms would remain separate entities. I would retain my existing clients with no sharing of income, and would pay my own secretary, maintain my own files, and a notice of separate identity would be posted, all in accordance with Los Angeles County Bar Association Informal Opinion No. 1881-4, a copy of which is attached.

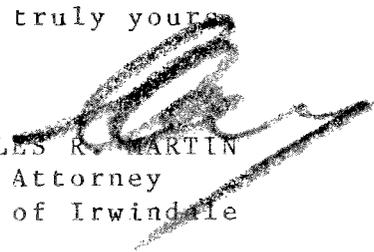
However, the other attorney represents a corporation that is under contract with two of my cities, and will possibly represent developers from time to time which will want to build or obtain permits in one or more of my cities.

While there is no actual conflict of interest, is there in the opinion of your body, such an appearance of conflict as would prohibit such a rental agreement?

The issue must be resolved in all three time factors, i.e., as to existing contracts, as to issues now in negotiations, and as to matters in the future. Nor is the issue solely a Section 1090 question, but one involving the FPPC conflicts questions as well.

Neither of us would want this rental arrangement if it would cause a 1090 or FPPC conflict of any kind.

Very truly yours,


CHARLES R. MARTIN
City Attorney
City of Irwindale

CRM/ms

Enclosure

cc: Michael B. Montgomery

LOS ANGELES COUNTY BAR ASSOCIATION

ETHICS COMMITTEE

DEC 7 2 26 PM '81
INFORMAL OPINION NO. 1981-4

(December 3, 1981)

CONFLICT OF INTEREST -- LAW OFFICES -- COMMON FACILITIES. An attorney may properly rent law office space from another law firm with which the attorney is unaffiliated provided adequate measures are taken to protect the confidences of clients and avoid the appearance of affiliation and provided that the rental agreement does not involve improper splitting of fees.

AUTHORITIES CITED:

Business & Professions Code
6068(e). California Rules of
Professional Conduct 2-108, 5-101,
5-103. L.A. Formal Opinions Nos.
216, 374. L.A. Informal Opinions
1979-4, 1972-15.

We are asked whether an attorney ("A") may rent office space from a law firm ("B") which has excess space it wishes to lease. A will utilize his own secretary and maintain his own files and accommodations. The only shared facilities will be the reception area of B. A's telephone will be answered by B's receptionist only when A's secretary is unavailable. It is contemplated that A and B may take occasional mutual referrals but no form of association or affiliation (other than landlord-tenant) is contemplated. A and B will continue to practice under their respective names. A and B will utilize the same outside service for computerized record keeping, but they will be separate, independent, customers of the service. A and B currently represent clients who have potential, but unasserted, claims for indemnity against each other. A and B propose to notify

their respective existing clients of their proposed rental arrangement in advance of its consummation. If any client objects; the rental agreement will not be consummated. The proposed rental agreement is a flat rate agreement not contingent upon A's income or profits.

In our opinion the proposed rental arrangement violates no ethical principle so long as adequate steps are taken to insure that the privileges and confidences of the respective clients of A and B are preserved. Although the proposed arrangement is not an office sharing arrangement in the ordinary sense, the cautionary language of Informal Opinion 1979-4 is appropriate:

"Whenever a lawyer shares offices with others, whether lawyer or non-lawyer, the problem of maintaining the client's confidences in keeping with Section 6068(e) of the Bus. & Prof. Code becomes apparent. Where the attorney also shares office staff with others, and the office staff has access to the client's files, the problem is compounded. The attorney should take all necessary precautions to insure that employees whose services are used in common with the laymen in the office fully understand that no information received by the attorney may be disclosed to any other person in the office. Failure to prevent such a disclosure may subject the lawyer to liability or discipline."

It has been held that the sharing of a suite "gives rise to the assumption that the two lawyers are related professionally" and therefore the lawyers should be treated as partners for purposes of determining whether conflicts of interest exist. (L.A. Formal Opinion 216; see, L.A. Informal Opinion 1972-15). The proposed arrangement,

however, is not a sharing agreement in the sense referred to in Informal Opinion 1979-4, but rather a simple lease of space. Provided that A and B take adequate steps to insure that clients or prospective clients cannot infer an association or affiliation between them, we see nothing improper in the proposed arrangement. By way of example, if the offices of A must be reached via the reception area of B, the reception area entranceway should be clearly marked to reflect that it serves two unrelated entities.

Insofar as the use of an outside vendor for billing, etc., is concerned, such use has been approved and the precautions to be followed outlined in Formal Opinion 374.

The Committee acts only with reference to specific questions submitted ex parte and its opinion, which is advisory only, is based on such facts as are set forth in the question submitted.

State of California



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December 11, 1984

Charles R. Martin
City Attorney
P.O. Box 80800
San Marino, CA 91108

Re: A-84-301

Dear Mr. Martin:

Your letter requesting advice under the Political Reform Act has been referred to Robert E. Leidigh, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:plh