**Utah Ethics Opinions**

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Utah State Bar

Ethics Advisory Opinion Committee

Opinion No. 96-14

Approved January 24, 1997

**Issue:** Is it permissible under the Utah Rules of Professional Conduct for an attorney practicing law in Utah to form a partnership or otherwise associate with one or more non-Utah lawyers or with legal practitioners from other countries?

**Opinion:** A Utah attorney may form a partnership or otherwise associate with individuals who are licensed to practice law in any jurisdiction within the United States or with persons qualified and authorized to engage in the functional equivalent of U.S. legal practice under the laws of a foreign country.

**Analysis:** The Utah Rules of Professional Conduct do not prevent a Utah lawyer from entering into a partnership with lawyers admitted in other jurisdictions for the purpose of practicing law in Utah. Rule 7.5(b) of the Utah Rules of Professional Conduct plainly contemplates that attorneys licensed to practice in different jurisdictions may nevertheless associate within a single firm and that the firm may establish offices in more than one jurisdiction. (fn1) This, of course, has become common practice in the United States with many law firms maintaining offices in several states.

There is no ethical prohibition against forming a partnership or sharing revenue from legal practice with non-Utah lawyers. Although not necessarily licensed to practice law in this jurisdiction, a non-resident lawyer is not considered a "nonlawyer" for purposes of the Utah rules against fee splitting and formation of partnerships with lay persons. Black's Law Dictionary defines a "lawyer" in part as "a person learned in the law' as an attorney, counsel, or solicitor; a person licensed to practice law. . . ." (fn2) Read in conjunction with Rule 7.5(b), the prohibitions of Rule 5.4(a) against fee sharing with a "nonlawyer" and of Rule 5.4(b) against forming a partnership with a "nonlawyer" for the purpose of practicing law do not logically extend to persons who are not Utah lawyers but are authorized to practice law in other jurisdictions.

Subject to certain ethical constraints that must be followed, it has long been recognized as permissible to staff multi-state offices with attorneys admitted to practice in different states.

The Canons of Ethics do not prohibit a lawyer in State I from entering into an arrangement with a lawyer in State II for the practice of law by which they share in the responsibility and liability of each other, if they indicate the limitations on their practice in a manner consistent with the canons. Subject to the same limitations, offices of the firm could be opened in both states. Of course, only the individuals permitted by the laws of their respective states to practice law there would be permitted to do the acts defined by the state as the practice of law in that state, but there are no ethical barriers to carrying on the practice by such a firm in each state so long as the particular person admitted in that state is the person who, on behalf of the firm, vouched for the work of all of the others and, with the client and in the courts, did the legal acts defined by that state as the practice of law. (fn3)

Similarly, there is no direct prohibition under the Utah Rules of Professional Conduct against partnership or fee splitting with lawyers in the same law firm or others who are authorized to engage in the practice of law from another country. As the Professional Guidance Committee of the Philadelphia Bar Association has noted:

As a practical matter, more and more firms are opening branch offices not only in different states but also in different countries. Admission to the bar of these states or countries, [even where there is] fee splitting . . . among members of the same firm, is not necessary and such a practice does not pose any ethical problem in Pennsylvania. (fn4)

For purposes of the Utah Rules, a Utah lawyer may associate with any person who is authorized to engage in generalized and substantial conduct within another country that would otherwise be viewed as the practice of law if conducted within Utah or within the United States. (fn5) Thus, a Utah attorney would be free, for instance, to form a partnership with a British solicitor, barrister or attorney, or persons similarly trained and authorized under the applicable standards of a foreign country to engage in the practice of law within that country's jurisdiction.

In addition to other applicable Rules of Professional Conduct, both the Utah lawyer and the firm with which he associates must comply with the requirements of Rule 7.5(b) governing firm names and letterheads. Identification of the lawyers in any office of the firm must include the jurisdictional limitations on those not licensed to practice in

the jurisdiction where the office is located. In addition, the Utah lawyer must take care to comport with the provisions of Rule 5.5(a) concerning the practice of law in any jurisdiction where the attorney is not licensed, where doing so would violate the regulations of the legal professional in that jurisdiction. Likewise, others within the law firm who are not admitted to practice in Utah are subject to restrictions against unauthorized practice of law in Utah, (fn6) and the Utah lawyer must abide by Rule 5.5(b), which prohibits a lawyer from assisting the unauthorized practice of law by others within the firm. It is the Utah lawyer's responsibility to see that all Utah legal matters undertaken by the firm are performed by or under the direct supervision of Utah attorneys.

Finally, our consideration of these issues and the guidance we provide is limited to considerations of issues arising under the Utah Rules of Professional Conduct and otherwise applicable to Utah attorneys practicing in Utah. We, of course, do not express any opinion as to the propriety of any association with non-Utah lawyers or law firms under the applicable standards of conduct in any other state or foreign jurisdiction.

**Footnotes**

1. A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations as those not licensed to practice in the jurisdiction where the office is located.

Utah Rules of Professional Conduct 7.5(b) (1996).

2. Black's Law Dictionary 799 (6th ed. 1990).

3. ABA Comm. Prof. Ethics, Formal Op. 316 (1967). Several states have formally recognized this position. *See, e.g.*, Amendments to Rules Regulation the Florida Bar, No. 87, 589, 1996 Fla. LEXIS 1063 (June 27, 1996); accord, *Kennedy v. Bar Ass'n of Montgomery Co.*, 561 A.2d 200 (Md. Ct. App. 1989).

4. Pa. Ethics Op. No. 92-19, 1992 WL 405939 (Phila. Bar Ass'n Prof. Guid. Comm.).

5. The laws of some foreign countries may allow relatively untrained persons to perform some acts that might technically be considered to constitute the "practice of law" in those countries. For example, such a person might hold an office similar in scope and function to a notary public in the U.S. Those individuals are essentially laypersons for purposes of this opinion, irrespective of the title or office held. Our opinion is intended to refer only to those professionals who are qualified and authorized to engage in the functional equivalent of U.S. legal practice. It is, of course, beyond the scope of this opinion to analyze which countries' "lawyers" would satisfy this guideline.

6. Utah Code Ann. § 78-51-25 (1996).

**Rule Cited:**

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