

Nebraska Ethics Advisory Opinion for Lawyers
No. 69-3

AN ATTORNEY MAY SHARE OFFICE SPACE AND THE EXPENSE OF OVERHEAD WITH THE REPRESENTATIVE OF A LIFE INSURANCE COMPANY AND HIS AGENT WHEN THE ONLY APPARENT BENEFIT WHICH WILL ACCRUE TO THE ATTORNEY IS A REDUCTION IN THE EXPENSE OF OVERHEAD, WHEN THEIR BUSINESSES ARE NOT ENMESHED, WHEN THE ATTORNEY HAS INFORMED THE REPRESENTATIVE THAT HE CANNOT RECOMMEND HIM AS AN ATTORNEY, AND WHEN THE ATTORNEY WILL NOT SHARE IN INSURANCE COMMISSIONS.

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Inquiry has been made by an attorney as to the following:

The attorney has discussed with a local representative of a life insurance company the possibility of the representative sharing some of the office expense in the office in which he now practices law. The representative and one of his agents will occupy two of the four rooms which he now leases. One room is a reception room which is occupied by his secretary where she answers telephone calls. The other room appears to be the attorney's office. On the outside of the leased space there will be a sign indicating that the offices of the insurance company are located inside. The representative's name will be on the front window where the attorney's name now appears. The attorney's business and the representative's business will remain separate. They plan a share-expense arrangement. The representative will pay forty per cent of some items of overhead, consisting of rent, lights, water, heat, trash hauling, janitor service, etc. The

representative will not contribute to the cost of law books or insurance on the contents. There will be separate telephones. The attorney's secretary will answer the representative's telephone during his absence, and she possibly will write letters for him for which the representative will pay the secretary. The attorney has told the representative that he cannot recommend him as an attorney. The attorney will not recommend the representative's company as compared with other insurance companies. The attorney will not share in the commissions earned by the representative or his agent. The attorney will enjoy a reduction in overhead expense.

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In ABA Informal Opinion No. 608 - 10/30/62 it is pointed out that the practice of joint office arrangements between lawyers and laymen should be discouraged.

ABA Informal Opinion No. 612 - 12/11/62 says that it is unethical for an attorney to share a suite with a collection agency which he represents because of direct or indirect advertising.

ABA Informal Opinion No. 630 - 2/27/63 considers the question of an attorney and a public accountant sharing office expense under the following circumstances:

1. There is one entrance to the suite of offices on which the lawyer's name and the certified public accountant's name appear. Both names are separate and the fact that one is a lawyer and the other is a certified public accountant plainly appear, but they are both on the same door.
2. There is one waiting room for both private offices.
3. The certified public accountant

shares part of the expense of the office including an agreed amount for the reception services of the attorney's secretary and an agreed amount for the use of the attorney's tax books and loose leaf tax services.

4. Most of the attorney's practice is in the area of taxation and estate planning.

5. There is no fee splitting, but the attorney hires the certified public accountant from time to time to make computations on tax cases being handled by the attorney. In such cases the agreed fee of the certified public accountant is either absorbed in the general overhead of the attorney or is added to the attorney's bill to the client as a separate itemized charge. The latter is done only with the advance approval of the client.

6. Where a client of the attorney is in need of accounting services and does not have his own accountant, the attorney occasionally recommends the certified public accountant. This is not directly related to the space sharing arrangement, since, because of the certified public accountant's proficiency, the attorney would probably recommend his services in such cases if there were no space splitting arrangement. In such cases there is, of course, no fee splitting arrangement.

7. The certified public accountant also has a high regard for the proficiency of the attorney in tax matters and occasionally recommends the attorney's services to his clients in need of tax assistance. There is, of course, no fee splitting in these situations.

The Committee concluded:

We find nothing unethical in such a situation. An association between a lawyer and a public accountant is unethical only when it is or could be used as a "feeder" of legal business to the lawyer. as an indirect

method of advertising the lawyer's services, or as a method of sharing fees or responsibility for legal business between the lawyer and a layman. In your situation none of these elements exist, and every precaution appears to have been taken to avoid them. The sharing of office space is merely for the physical convenience of both parties, and in this we find nothing improper, provided the proper safeguards are maintained.

In ABA Informal Opinion No. 749 - 3/31/64 the Committee found that the safeguards referred to in Informal Opinion No. 630 - 2/27/63 had not been taken and that it was unethical for a lawyer to share offices with a firm of certified public accountants.

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It appears that the safeguards contemplated meet the requirements of ABA Informal Opinion No. 630 - 2/27/63, and that the proposal to share office space and expenses is not unethical.

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