Opinion No. 84-3  Topic: Conflict of Interest
October 29, 1984

Digest: It is professionally proper for a member of a County Board to represent the State of Illinois as a Special Assistant Attorney General in condemnation proceedings within the County.

Ref.: Rule 5-105, 4-101, 8-101 and ISBA Opinion No. 335.

FACTS
An attorney in private practice is a member of a County Board and employed part-time as a special Assistant Attorney General for the purpose of representing the State of Illinois in condemnation proceedings in the same County for which he sits on the County Board.

QUESTION
Is it a conflict of interest for an attorney to serve on a County Board and at the same time represent the State of Illinois as a Special Assistant Attorney General handling condemnation cases within the County?

OPINION
The Committee does not feel that there is a per se conflict of interest by reason of an attorney being a member of a County Board and representing the State of Illinois as a Special Assistant Attorney General in condemnation proceedings.
Rule 4-101 pertains to preservation of confidences and secrets of a client, Rule 5-105 requires that a lawyer refuse employment if the interest of another client may impair the independent professional judgment of the lawyer and Rule 8-101 governs the conduct of lawyers who are public officials. None of the provisions of these rules would apply to a situation where the lawyer was employed to prosecute condemnation proceedings against a private landowner for use of the land by the State of Illinois. Only if the County were involved would there be a possible or foreseeable violation of any of the applicable rules.

ISBA Opinion 335 addressed the question of the acceptance of private employment by an Assistant Attorney General where the matter is in an area wholly unrelated to those in which he might or could have duties or responsibilities. ISBA Opinion 335 was rendered under the disciplinary rules which have now been replaced by the Code of Professional Responsibility. The Committee sees no substantive change in the applicable provisions of the Code from the disciplinary rules as they existed at the time that Opinion 335 was rendered. Therefore, as stated in Opinion 335, if the private employment of the Assistant Attorney General would be in areas wholly unrelated to those in which he might or could have duties or responsibilities as a public official, then an actual conflict would not exist and a possible conflict could not reasonably be anticipated.

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