

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-174
Issued: November 1977

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: Lawyers A, B and C share offices. Lawyer A represents the Special Fund before the Workmen's Compensation Board and shares the fees therefrom with Lawyer B. Lawyer C is a member of the Kentucky General Assembly. Is Lawyer C in violation of any ethical standards?

Answer: Qualified no.

References: DR 4-101, 5-105, 8-101; EC 8-8, 9-2; *In re* Advisory Opinion, 526 S.W.2d 306 (Ky 1974); Opinion KBA E-148 (1976)

OPINION

We will assume that lawyers who share offices should be treated as if they were partners for purposes applying to DR 101 and 5-105, concerning client confidences and conflicts of interest. In general, in civil litigation, a conflict of interest can exist only between the parties to the same litigation or a substantially related litigation. *See, In re Advisory Opinion*, 526 S.W.2d 306 (Ky. 1974), and Opinion KBA E-148 (1976).

Under EC 8-8, lawyers who hold public office, whether full or part-time, should not engage in activities in which their professional or personal interests may foreseeably be in conflict with their official duties.

DR 8-101 provides that a lawyer who holds public office shall not use his public position to obtain or attempt to obtain a special advantage in legislative matters for himself or for a client under circumstances where he knows or it is obvious that such action is not in the public interest, or use his public position to influence or attempt to influence a tribunal to act in favor of himself or a client. We are mindful that under the factual circumstances set forth above, Lawyers A, B and C should carefully weigh their individual acts and eliminate those that might constitute or have the appearance to the general public of being improper (EC 9-2).

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.