

**ETHICS OPINION NUMBER 26
OF THE MISSISSIPPI BAR
RENDERED NOVEMBER 15, 1974
AMENDED APRIL 6, 2013**

CONFLICT OF INTEREST – GOVERNMENT ATTORNEY - A lawyer should not accept proffered employment if his personal interest or desires will, or there is a reasonable probability that they will, affect adversely the advice to be given or services to be rendered the prospective client.

The Ethics Committee of the Mississippi Bar has been requested to render an opinion on the facts presented under the following hypothetical situation:

Lawyer A and Lawyer B practice law as partners. Lawyer A is the City Attorney. Lawyer B has asked the City to grant an exception to a City Ordinance for Client X. The City Council has referred the matter to a City Commission and this Commission has ruled adversely to Client X.

Lawyer B appeals the Commission's decision to the City Council. At the time the appeal is being heard, the City Commission having made the ruling is not represented. Lawyer B appears before the City Council to argue the appeal and Lawyer A is present. Lawyer A joins Lawyer B in arguing Client X's appeal before the City Council.

Under the facts as set out above, is there a conflict of interest for Lawyer A since he is the City Attorney and partner to Lawyer B and aids Lawyer B in his arguments before the City Council?

Rule 1.7 of the Mississippi Rules of Professional Conduct (MRPC) states in pertinent part that “[a] lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer’s responsibilities to another client or to a third person, or by the lawyer’s own interest.”

Rule 1.10(a), MRPC, states that “[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of the practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.4.” Rule 1.10(b), MRPC, states in pertinent part that lawyer in a firm “may not knowingly represent a person in the

same or a substantially related matter in which that lawyer, or a firm . . . had previously represented a client whose interests are materially adverse to that person.”

The Committee is of that opinion that under the scenario described a conflict of interest exists. Unless the lawyer believes the representation will not be adversely affected and both clients have given knowing and informed consent, Lawyer A cannot assist Lawyer B.